

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

EVANS FANOR,

CIVIL ACTION No. 05-5536 (PGS-ES)

Plaintiff,

v.

OFFICER CARLOS ALVARADO
Individually and in his capacity as
An officer with the NEWARK
POLICE DEPARTMENT, and the
City of NEWARK,

Defendants.

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U.S. DISTRICT COURT
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BACKGROUND

In or about March 2004, Defendant Alvarado appeared at plaintiff's employment in the Emergency Room with a prisoner, Defendant Alvarado refused to move away from the prisoner patient to allow space for the emergency room nurse to triage the patient. Plaintiff was present during the nurse's requests to defendant Alvarado to move away to allow sufficient space to triage the prisoner patient. Defendant Alvarado's refusal to move away during a medical assessment resulted in the Emergency Room Nurse Manager contacting Defendant Alvarado's superior. Defendant Alvarado became upset that he was reported to his superior. He became belligerent and approached plaintiff in an angry and intimidating manner with his hand on his gun. Defendant Alvarado demanded Plaintiff's name and when plaintiff gave his I.D., Defendant Alvarado snatched it out of plaintiff's hand then threw it on Plaintiff's desk.

A month later, Defendant Alvarado appeared a few more times at plaintiff's work with different prisoner patients and would point to and look at plaintiff, shake his head and laugh at plaintiff in a sarcastic and belittling manner to intimidate Plaintiff.

On May 8, 2004 Defendant Alvarado appeared at Plaintiff's employment again. Defendant Alvarado was using his cell phone in the Emergency Room area. Pursuant to issue No. 831-200-098 of the Policy & Procedure manual of the University, cellular phone usage is prohibited in patient areas. Document provided. Plaintiff duties included enforcing policies in the Emergency Room; therefore Plaintiff informed Defendant Alvarado that cell phones were prohibited in that area. Defendant Alvarado poked his index finger in Plaintiff's face and said "I'm sick and tired of you always trying to tell me what to do." Plaintiff told Defendant Alvarado to stop poking him in the face. Defendant Alvarado responded by grabbing Plaintiff's jacket from the front, pinching Plaintiff's skin and hurting Plaintiff, causing Plaintiff to raise his voice to demand him to let him go. Defendant Alvarado then grabbed Plaintiff's left arm, twisted it and forcefully pushed it upwards and held plaintiff in that position. Defendant Alvarado handcuffed Plaintiff and he took off Plaintiff's tie, belt, watch and shoelaces while laughing at Plaintiff.

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Defendant Alvarado took Plaintiff to another room and then leaned into Plaintiff's face and told Plaintiff "Shut the FUCK up Bitch." Later, as defendant Alvarado took Plaintiff to the squad car, he gleefully said "I got you!" In response to plaintiff informing Defendant that he would contact I.A.D. and the D.A.'s office, Defendant Alvarado informed Plaintiff "Go Fuck Yourself! They are not going to do jack shit to me, they would never take your word over mine."

At the Eastern District Precinct, Defendant Alvarado refused Plaintiff's requests to make a phone call or for the number to I.A.D., refused to allow Plaintiff to use the bathroom for two hours since his initial request and continually harassed Plaintiff while he was imprisoned by accusing him of threatening him. Plaintiff was incarcerated for two and a half days jointly in the Eastern District Police Station and at the main jail located at 31 Green Street. Plaintiff was refused a phone call, a shower, no toothbrush and no access to a social worker the whole time he was incarcerated. Plaintiff was charged with terroristic threat, obstructing, resisting arrest, and disorderly conduct.

As a direct and proximate result of the actions on the part of the Defendants, Plaintiff lost time from work, lost salary, lost his freedom for two and a half days, missed celebrating mother's day with his terminally ill mother during his imprisonment, was dizzy, nauseous, was in unsanitary conditions in the cell, suffered headaches, stomachaches, feared losing his job, presently has anxiety and fears every time he sees a police officer, suffers sleeplessness, plaintiff had arthroscopic surgery on his right knee, Plaintiff had abdominal surgery, Plaintiff is tended to by a psychologist on a weekly basis, Plaintiff attend physical therapy three times per week, Plaintiff is tended to by a urologist on a daily basis due to the offset of erectile dysfunction after the incident, unable to have sexual intercourse, unable to exercise, unable to go biking, swimming, etc. since the incident due to severe body ache and pain. Document provided.

As a direct and proximate result of the actions on the part of the Defendants, Plaintiff has or is currently on these medications: Ambien 10 MG TAB, Viagra 50 MG TAB, Etodolac ER 500 MG TAB, Naproxen 500 MG TAB, Ibuprofen 400 MG TAB, Cialis 20 MG TAB, Cyclobenzaprine 10 MG TAB, and Hydrocodone/APAP 7.5/ 750 (WATS).

As a result of the false charges of Defendant Alvarado, Plaintiff was incarcerated in jail, was obliged to expend money to defend himself and to procure sureties for his release for his bail at \$25,000.00, and remained at large under bail until the Grand Jury of Essex County returned a "No Bill" on said false complaint brought and prosecuted by Defendant Alvarado against Plaintiff. Document provided.

By reason of the false and malicious prosecution, Plaintiff was injured in body and mine, was prevented from following his customary pursuit in his usual occupation, has suffered greatly in his credit and reputation, and has expended large sums of money in his defense. Plaintiff was deprived of his personal liberty, suffered great physical pain and anguishes of mind, and was greatly damaged.

As a proximate result of the excessive force, Plaintiff has sustained permanent injuries and has incurred medical bills and other expenses. These injuries have caused and will continue to cause Plaintiff great pain and suffering, both mental and physical.

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I reviewed Corporation Counsel Motion for summary judgment; Plaintiff consider the evidence and inferences to be drawn therefore in the light most favorable to the nonmovant. Olabisiomotosho v. Houston, 185 F. 3d 521, 525 (5th Cir. 1999).

Plaintiff believed the appropriate rule is set forth in 6 Moore's Federal practice 56.15 (4), (2d ed. 1965), wherein it is stated:

'The general and well settled rule is that the court should not resolve a genuine issue of credibility at the hearing on the motion for summary judgment, whether the case be a jury or court case; and if such an issue present, the motion should be denied and the issue resolved at trial by the appropriate trier of the facts, where, to the extent that witnesses are available, he will have the opportunity to observe their demeanor. ***' Sartor v. Arkansas Natural Gas Corp. (1944) 321 U.S. 620, 64 S. Ct. 724, 88 L. Ed. 967, 7 F.R. Serv. 56 c. 41.

Plaintiff asserts that he raised a genuine issue of material facts concerning the use of excessive force by defendant Alvarado. Defendant Alvarado has a history of using excessive force, as exemplified by his Internal Affairs file. Plaintiff contend that the "Inaction" of the Newark Police Department to sufficiently discipline defendant Alvarado for his misconduct and abusive ways as a Newark Police officer allowed him on the path of continuously violate the constitutional rights of those he sworn to protect. Officer Alvarado was cited numerous time to Internal Affairs for the usage of excessive force, while Internal Affairs continuously exonerated him. The City of Newark and the Newark Police Department are Policy Makers; therefore they are directly and indirectly responsible for defendant Alvarado's action.

The Plaintiff assert that he produced summary judgment evidence sufficient to establish a genuine issue of material fact concerning municipal liability, i.e., evidence of a municipal policy or custom that was causally linked to the alleged violation of plaintiff's constitutional rights.

It has been stipulated to that Defendant, Carlos Alvarado, was at all times relevant hereto an officer of the Newark Police Department and therefore an agent of Co-Defendant, the City of Newark. The city of Newark is a "Person" within the meaning of 28 U.S.C. 1983. Violation of one's 4th amendment right is a violation of his or her constitutional rights. 28 U.S.C. 1983 provides that if such deprivations should occur those persons responsible "Shall be liable to the party injured in an action at law."

As a direct and proximate result of the aforementioned battery of the plaintiff by the Defendant, the plaintiff sustained injury to various portions of his body resulting in plaintiff having to expend money for medical care and treatment; resulting in plaintiff experiencing pain suffering, mental anguish; and resulting in plaintiff becoming disabled and disfigured, all of which can be substantiated by plaintiff's medical record. The tort of assault is a claim for which relief may be granted.

Plaintiff's damages stemming from a common nucleus of operative facts, by Defendant Alvarado as agent of Co-Defendant City of Newark, allows for this court to hear all the claims against the Defendant.

As a direct and proximate result of the aforementioned assault plaintiff sustained injury to various portions of his body resulting in plaintiff having to expend money for medical care and treatment; resulting in experiencing pain, suffering, and mental anguish; and resulting in plaintiff becoming disabled and disfigured, as previously stated, this can be substantiated by Plaintiff's medical record and further testimony of all of the physicians who had and who are currently treating plaintiff for his ailments. The evidence supports that a reasonable finder of

fact could find that an assault had occurred and therefore this matter should be heard by the trier of fact and not to be decided by a motion for summary judgment for the Defendants'.

Fourth Amendment / Fourteenth Amendment & Excessive Force

The Fourth Amendment's proscription of unreasonable seizures of person or the Fourteenth Amendment's guarantee that no state will deprive a citizen of liberty without due process of the law. In 1989, in Graham v. Connor, 490 U.S. 386, 390 (1989) the U.S. Supreme Court resolved the issue as it applied to arrestees by holding that during an arrest, the fourth Amendment provides the proper constitutional standard to assess excessive force claim. The fourth Amendment forbids the use of excessive force during a "seizure" or arrest. An illegal arrest or other unreasonable seizure of a person is itself a violation of the Fourth Amendment

In 1985, in Tennessee v. Garner, [471 U.S. 1, 5] 40-7-108 (1982) the U.S. Supreme Court first applied the Fourth Amendment to a suspect's claim of excessive force during a seizure. An officer's use of force becomes excessive when it is objectively unreasonable. The Garner court noted that an application of the Fourth Amendment must balance the nature and quality of the intrusion against the importance of the governmental interests alleged to justify that intrusion.

In 1952, In Rochin v. California, 342 U.S. 165, 72 S Ct. 25, 1396. addressing the claim of an arrestee whose stomach was forcibly pumped by order of his arresting officer, the court held that police conduct which "Shocks the Conscience" offends Fourteenth amendment due process.

In 1973, In Johnson v. Click, 481 F. 2d 1028, 1033 (2d Cir. 1973) the Glick court introduced a four part test to determine precisely when the use of police force shocks the conscience.

In 1989, in Graham v. Connor. The court held that the Fourth Amendment provides the proper constitutional standard to assess claims of excessive force during the course of an arrest.

Two years after Graham, in 1991, the U.S. Supreme Court decided County of Riverside v. McLaughlin, 500 U.S. 44, 47, 56 (1991). In McLaughlin, the court reaffirmed and expanded upon its earlier 1975 decision in Gerstein v. Pugh, 420 U.S. 103, 114 (1975) in which it held that the Fourth Amendment requires a judicial determination of probable cause before the extended detention of suspects following an arrest. The plaintiffs in Gerstein were detained for extended periods without hearings to determine if there was probable cause for the arrests and continued detention. The court held that during the period of pretrial detention, failure to provide detainees with such hearings violated their Fourth Amendment rights.

In 1994, Albright v. Oliver, 510 U.S. 266, 274 (1994) the U.S. Supreme Court pounded another post- Graham interpretation of Fourth Amendment protection. The Fourth Amendment governs claims of malicious prosecution because it was drafted to protect against all pretrial deprivation of liberty.

The substantive due process approach: excessive force claims of pretrial detainees are governed exclusively by the Fourteenth Amendment. In 1993, In Valencia v. Wiggins, 981 F. 2d 1440, 1449 (5th Cir. 1993) the fifth circuit court of appeals held that the due process clause of the Fourteenth Amendment provides the exclusive constitutional standards protecting pretrial detainees from excessive force. Plaintiff was choked to the point of unconsciousness, upon his awakening in handcuffs, he was beaten by police. The court held that the Fourteenth Amendment was appropriate standard because the force was applied after the incidents of arrest were

completed, after the plaintiff had been released from the custody of his arresting officer, and after he had been in detention awaiting trial for a significant period of time.

In Riley v. Dorton, 115 F.3d 1159, 1164 (4th Cir. 1997) the Fourth Circuit court of appeals also held that the Fourteenth Amendment's due process clause provides the exclusive standard governing pretrial detainees' excessive force claims. The continuing seizure approach under the Fourth Amendment continues to provide protection in the Post-Arrest context.

In contrast to those courts relying exclusively on the Fourteenth Amendment to adjudicate excessive force claims in the Post-Arrest context, other circuits have interpreted the Fourth Amendment to provide concurrent protection. For example, in 1997, in United States v. Johnson, (98-1696) 529 U.S. 53 (2000) 154 F. 3d 569. The third circuit court of appeals held that the Fourth Amendment continues to provide protection after a suspect is taken into custody. The defendant argued that the district court erred by applying the Fourth Amendment because the arrest was over when he applied the force. Without determining the precise point at which an arrest ends and pretrial detention begins, the court adopted the continuing seizure concept. According to the court, the stationhouse beating occurred while the arrest was still in progress and was therefore governed by the Fourth Amendment as the Johnstone court interpreted Graham to hold that an arrest is a continuing event because the force used against Graham occurred after police took him into custody. The Johnstone court observed that a seizure can be a process or continuum, which is not necessarily a discrete moment of initial arrest.

In Moore v. Novak, 146 F. 3d 531, 535 (8th Cir. 1998) the eighth circuit court of appeals found that the fourth Amendment continues to protect the accused from excessive force in the Post-Arrest context.

In Austin v. Hamilton, the tenth circuit court of appeals held that the end of an arrest does not preclude application of the Fourth Amendment. There, the plaintiffs' complaint alleged that following their arrest for Marijuana possession, they were repeatedly assaulted without provocation, denied water, refused restroom access, and forced to remain overnight in the clothes they subsequently soiled.

The Austin court recognized that there are different points along the "Custodial Continuum" along which variable constitutional standards attach this continuum runs through initial arrest, pre-hearing custody, pretrial detention, and post-conviction incarceration.

The U.S. Supreme court's decisions in Gerstein v. Pugh and county of Riverside v. McLaughlin, the Fourth Amendment provides the standard to assess the constitutionality of prolonged, post-arrest custody of pretrial detainees.

Austin, Gerstein, the U.S. Supreme court applied the Fourth Amendment to assess the duration of post-arrest, pre-arraignment custody.

Although, Gerstein and McLaughlin pertained to the duration of, and legal justification for, prolonged custody of pretrial detainees, the court observed that the requirements of the Fourth Amendment apply broadly to the rights of suspect's incident to their detention pending trial, not simply the duration of and justification for that detention.

The McLaughlin court explicitly recognized that the Fourth Amendment continues to protect pre trial detainee past the point of initial-arrest. The court acknowledged that the Fourth Amendment can protect pretrial detainees up to four days following an arrest.

Although Graham cast doubt on whether the court would continue to apply the Fourth Amendment past the point of initial arrest, McLaughlin re established the court's broad interpretation of the Amendment's breadth.

Under the case of Bell v. Wolfish, 441 U.S. 520, 557 (1979). The due process clause protects pretrial detainees from excessive force that amounts to punishment. The Bell court relied on the due process clause of the Fourteenth Amendment to provide pretrial detainees with protection analogous to that supplied by the Eight Amendment. The court's decision in Albright, Gerstein, and McLaughlin clearly demonstrate the Fourth Amendment does, in fact, apply to pretrial detainees.

The court's pronouncements in Bell and Graham that after a prolonged period of Custody, pretrial detainees' excessive force claims must be brought under the due process clause of the Fourteenth Amendment. Under the hybrid approach, Fourth Amendment protections end after a probable cause hearing. Thus, that Graham and Bell require individuals detained for extended periods to bring excessive force charges under the Fourteenth Amendment is perfectly consistent with the hybrid approach. This approach would also apply the Fourteenth Amendment because under Gerstein and McLaughlin those suspects would have already received probable cause hearing.

In Riley v. Dorton, 115 F. 3d 1159, 1164 (4th Cir. 1997). The most logical point at which to cut off fourth Amendment protections following an arrest would be when the suspect leaves the custody of his or her arresting officer.

Plaintiff held that the question of probable cause in a section 1983 damage suit is one for the jury. Patzig v. O'Neil, 577 F. 2d 841, 848 (3d Cir. 1978).

Municipality Liability

Plaintiff understands that under 42 U.S.C. 1983, Municipal defendants cannot be held liable under a theory of respondeat superior; Municipal liability only arises when a constitutional deprivation results from an official custom or policy. Monell v. Department of Social Servs. Of the City of New York, 436 U.S. 658, 691-94 (1978).

A municipality's failure to train police officers only gives rise to a constitutional violation, when that failure amounts to deliberate indifference to the rights of persons with whom the police came into contact. City of Canton, Ohio v. Harris, 489 U.S. 378 (1989). A failure to train, discipline or control can only form the basis for section 1983 Municipal liability if the plaintiff can show both contemporaneous knowledge of the offending incident or knowledge of a **prior pattern** of similar incidents and circumstances under which the supervisor's actions or inactions communicated a message of approval to the offending subordinate. Boneberger v. Plymouth Township, 132 F. 3d 20, 25 (3d Cir. 1997). Defendant Alvarado has a pattern of using excessive force repeatedly as indicative of the numerous complaints in his Internal Affairs file. The Newark Police Department would repeatedly exonerated Defendant Alvarado, therefore indirectly consenting to his pattern of abuse toward the community.

Plaintiff claims against the municipal defendants rest on allegations that these defendants are directly responsible for defendant Alvarado's action (as exemplified by officer Alvarado's Internal Affairs file-repeatedly reported for excessive force usage while he is continuously exonerated by the Newark Police Department.) and that they failed to adequately train, discipline or control Defendant Alvarado which gave him the opportunity to harass and unlawfully detain plaintiff and other complainants.

Plaintiff conviction was brought about through fraud or coercion, precisely the type of conduct which 1983 was created to guard against. 1983 is used to sue for false arrests and malicious prosecution and makes it unlawful for anyone acting under the authority of state law to deny another person of his/her constitutionally guaranteed rights.

Plaintiff file his claims under section 1983 for false arrest/false imprisonment, excessive force, and malicious prosecution and on plaintiff claims under state law for false imprisonment and malicious prosecution. A detention on the basis of a false arrest presents a viable section 1983 action. Reeves v. City of Jackson, 608 F. 2d 644 (5th Cir. 1979). (Section 1983 claims for false arrest and false imprisonment presented where, without probable cause, officers arrested and detained stroke victim in belief he was intoxicated).

Qualified Immunity and Claims Under 1983

Qualified Immunity clause is shut down if a district court found that genuine factual disputes exist. We use a two-step approach to analyze qualified Immunity claims. Price v. Roark, 256 F. 3d 364, 369 (5th Cir. 2001). First, we "consider whether the facts alleged, taken in the light most favorable to the party asserting the injury, show that the officers conduct violated a constitutional right." Citing Saucier v. Katz, 121 S. Ct. 2151, 2156 (2001). If plaintiff's allegations could make out a constitutional violation, we then "ask whether the right was established- that is, whether it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted." (Quoting Saucier, 121 S.Ct. at 2156). If after viewing all of the evidence most favorable to plaintiff and that reasonable public officials can not differ on the lawfulness of the defendant's actions, the defendant is not entitled to qualified immunity. Qualified Immunity for individuals must be pleaded and proved. Harlow v. Fitzgerald, 457 U.S. 800, 102 S. Ct. 2727, 73 L. Ed. 2d396 (1982).

Qualified immunity offers complete protection for government officials sued in their individual capacities if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. Vinyard v. Wilson, 311 F. 3d 1340, 1346 (11th Cir. 2002) (quoting Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S. Ct. 2727 (1982)).

"The purpose of this immunity is to allow government officials to carry out their discretionary duties without the fear of personal liability or harassing litigation, protecting from suit all but the plainly incompetent or one who is knowingly violating the federal law." Lee v. Ferraro, 284 F. 3d 1188, 1194 (11th Cir. 2002). To receive qualified immunity, "The public official must first prove that he was acting within the scope of his discretionary authority when the allegedly wrongful acts occurred." Lee v. Ferraro, supra.

The threshold inquiry a court must undertake in a qualified Immunity analysis is whether (The) plaintiff's allegations, if true, establish a constitutional violation." Hope v. Pelzer, 536 U.S. 730, 122 S.Ct. 2508 (2002) (citing 878 Saucier v. Katz, 533 U.S. 194, 121 S. Ct. 2151 (2001)). However, "If a constitutional right would

have been violated under the plaintiff's version of the facts, the next, sequential step is to ask whether the right was clearly established." Vinyard, 311 F. 3d at 1346 (quoting saucier, 533 U.S. at 201, 121 S. Ct. 2151).

To hold the governmental employer liable for such claims it must be established that the actions of the governmental entity either through an express or implied policy or custom, or through failure to properly train its officers, must be viewed as the moving force of the Constitutional violation. Monell v. Dept. of Soc. Serv. 436 U.S. 658, 98 S. Ct. 2018 (1978).

A warrant less arrest without probable cause violates the Fourth Amendment and forms the basis for a 1983 claim. Marx v. Gumbinner, 905 F. 2d 1503, 1505 (11th Cir. 1990). "For probable cause to exist ... an arrest must be objectively reasonable based on the totality of the circumstances." Lee, *Supra* at 1195.

A police officer is entitled to qualified immunity if he had arguable probable cause for the arrest or applied for an arrest warrant in good faith. Moore v. Gwinnett County, 967 F. 2d 1495 (11th Cir. 1992).

To ultimately prevail on his section 1983 of false arrest and false imprisonment claim, plaintiff must show that defendant Alvarado did not have probable cause to arrest plaintiff. Brown v. Lyford, 243 F. 3d 185, 189 (5th Cir. 2001). ("The constitutional torts' of false arrest... and false imprisonment... require a showing of no probable cause."). Probable cause exists "When the totality of the facts and circumstances within a police officer's knowledge at the moment of arrest are sufficient for a reasonable person to conclude that the suspect had committed or was committing an offense." Glenn v. City of Tyler, 242 F. 3d 307, 313 (5th Cir. 2001). Therefore, defendant Alvarado is not entitled to qualified immunity if a reasonable officer in his position would not have arrived at the same conclusion for an arrest, plaintiff did not commit any offense that warranted him to be arrested. According to a statement made by a witness for the defense, Security Officer Ellis Haynes, "The undersigned officer did not witness or hear Mr. Evans Patient Advocate made any type of terroristic threat toward the Newark Police Officer while assigned to the UH Emergency Room Crisis Unit". Officer Haynes being less than three feet away from the place of the incident would have definitely heard plaintiff making such a statement if defendant Alvarado was telling the truth. The only person who "allegedly" heard plaintiff making such a threat is Officer Alvarado and his partner. Document provided. Later, as Defendant Alvarado took plaintiff to the squad car, he gleefully said "I got you!" In response to plaintiff informing Defendant that he would contact I.A.D. and the D.A.'s office, defendant Alvarado informed plaintiff "Go Fuck Yourself! They are not going to do jack shit to me, they would never take your word over mine."

Malicious Prosecution

Malicious prosecution need to produce evidence that would raise a genuine issue of material fact on those claims in order to prevail on the section 1983 Malicious Prosecution claim, Plaintiff must establish, among other things, an absence of probable cause for the initiation of the proceedings against plaintiff. Plaintiff has held that the question of probable cause in section 1983 damage suit is one for the jury. Patzig v. O'Neil, 577 F. 2d 841, 848 (3d Cir. 1978).

A false arrest claim is an intentional tort and requires a showing of (1) an arrest under process of law, (2) without probable cause, and (3) made maliciously. Desmond v. Troncalli Mitsubishi, 243 Ga. App. 71, 532 S.E. 2d 463 (2000). A lack of probable cause exists when the circumstances are such as to satisfy a reasonable man that the accuser had no ground for proceeding but his desire to injure the accused. Expressly provides that the lack of probable cause shall be a question for the Jury.

The malice necessary to support a claim for false arrest or for malicious prosecution may also be inferred if the defendant's actions were wanton or were done with a reckless disregard for or conscious indifference to the rights of the plaintiff to the rights of the plaintiff- Fleming v. U-haul, 71, 532 S.E. 2d 463 (2000).

False Imprisonment is defined as the unlawful detention of a person, for any length of time, whereby such person is deprived of his personal liberty. The elements of the cause of action are (1) the detention and (2) the unlawfulness thereof Barbe v. Collins, 219 Ga. App. 63, 463 S.E. 2d 922 (1995); Scott Housing Systems, Inc. v. Hickox, 174 Ga. App. 23, 329 S.E. 2d 154 (1985).

An action for false imprisonment will lie where a person is unlawfully detained under void process or under no process at all. Miller v. Grand Union Company, 250 Ga. App. 751, 552 S.E. 2d 491 (2001).

Section 1983 provides a civil remedy for persons whose federal constitutional or other federally established rights are violated under color of state law. Section 1983 does not create a new cause of action but rather provides a means by which violations of federally-protected rights can be converted into civil actions for damages. Butts v. Volusia, 222 F. 3d 891 (11th Cir. 2000).

False Imprisonment and the Application of Qualified Immunity

An unlawful arrest and detention by a police officer affected under color of state law gives rise to an action under section 1983 for deprivation of a federally protected right, Monroe v. Pape, 365 U.S. 167, 81 S. Ct. 473 (1961); Pierson v. Ray, 386 U.S. 54, 87 S.Ct. 1213 (1967). A false imprisonment claim under 1983 is based on the protection of the Fourteenth Amendment against deprivations of liberty without due process of law as well as the Fourth Amendment's prohibition on unreasonable seizures. Baker v. McCollan, 443 U.S. 137, 142, 99 Sup. Ct. 2689, 2693-94 (1979). Where a police officer lacks probable cause to make an arrest, the arrestee has a claim under 1983 for false imprisonment based upon a detention pursuant to that arrest. Ortega v. Christian, 85 F. 3d 1521 (11th Cir. 1996).

Malicious prosecution and the application of Qualified Immunity

The 11th Circuit has determined that a malicious prosecution can constitute a violation of the Fourth Amendment and a viable constitutional tort cognizable under section 1983. Uboh v. Reno, 141 F. 3d 1000, 1002-04 (11th Cir. 1998); Whiting v. Traylor, 85 F. 3d 581, 584 (11th Cir. 1996); Kelly v. Curtis, 21 F. 3d 1544, 1554-55 (11th Cir. 1994). To establish a federal malicious prosecution claim under section 1983, the plaintiff must prove a violation of his Fourth Amendment right to be free from unreasonable seizures in addition to the elements of the common law tort of malicious prosecution. Uboh, 141 F. 3d at 1002-04; Whiting, 85 F. 3d at 584-86; Kelly, 21 F. 3d at 1553-55.

Municipal Liability and Qualified Immunity

Governmental entities may be held liable under 42 U.S.C., 1983 only when a governmental "Policy or Custom" is the moving force behind the constitutional deprivation. *Farred v. Hicks*, 915 F. 2d 1530, 1532-33 (11th Cir. 1990). See also *Kentucky v. Graham*, 473 U.S. 159, 105 S. Ct. 3099 (1985). The governmental entity's "Policy or Custom 'Must have played a part in the violation of federal law.'" A local governmental entity may not be held liable for an employee's tortuous acts "unless action pursuant to official municipal policy of some nature caused the constitutional tort." *Collins v. City of Harker Heights*, 503 U.S. 115, 112 S. Ct. 1061, (1992) (quoting *Monell*, *Supra* at 691). Plaintiff claim that defendant Alvarado, as well as the Co-Defendants deprived plaintiff of rights secured by the constitution and such deprivation occurred under color of law. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 150 (1970). The Fourth Amendment protects citizens from arrests that are not based on probable cause. U.S. Const. amends IV.

For qualified Immunity to be an applicable defense, the court must determine that an objectively reasonable official would have believed that the action taken or omitted violated that right. *Hatch v. Dep't for Children, Youth & their Families*, 274 F. 3d 12, 20 (1st Cir. 2001).

In addition to showing the existence of an official policy or custom, Plaintiff must prove "that the municipal practice was the proximate cause of the injuries suffered." *Bielevicz v. Dubinon*, 915 F. 2d 845, 850 (3d Cir. 1990). "To establish the necessary causation, a plaintiff must demonstrate a 'plausible nexus' or 'affirmative link' between the municipality's custom and the specific deprivation of constitutional rights at issue." (quoting *City of Oklahoma City v. Tuttle*, 471 U.S. 808, 823 (1985) and *Estate of Bailey by Oare v. County of York*, 768 F. 2d 503, 507 (3d Cir. 1985), overruled on other grounds by *Deshaney v. Winnebago County Department of Social Services*, 489 U.S. 189 (1989); see also *Bielevicz*, 915 F. 2d at 851. Holding that "Plaintiffs must simply establish a municipal custom coupled with causation- i.e., that policy makers were aware of similar unlawful conduct in the past, but failed to take precautions against future violations, and that this failure, at least in part, led to their injury"); *Carswell v. Borough of Homestead*, 381 F. 3d 235, 244, (3d Cir. 2004) ("there must be a direct causal link between a municipal policy or custom and the alleged constitutional deprivation.") (Quoting *Brown v. Muhlenberg Township*, 269 F. 3d 205, 214 (3d Cir. 2001) (quoting *Canton*, 489 U.S. at 385)). "As long as the causal link is not too tenuous, the question whether the municipal policy or custom proximately caused the constitutional infringement should be left to the jury." *Bielevicz*, 915 F. 2d at 851. "A sufficiently close causal link between... a known but uncorrected custom or usage and a specific violation are established if occurrence of the specific violation was made reasonably probable by permitted continuation of the custom." (quoting *Spell v. McDaniel*, 824 F. 2d 1380, 1391 (4th Cir. 1987)); see also A.M. ex rel. *J.M.K. v. Luzerne County Juvenile Detention Center*, 372 F. 3d 572, 582 (3d Cir. 2004). The deficiency of a municipality's training program must be closely related to the plaintiff's ultimate injuries.

In the case of claims (such as failure-to-train claims) that require proof of deliberate indifference, evidence that shows deliberate indifference will often help to show causation as well. Reflecting on failure-to-train cases, the court recently observed: The likelihood that the situation will recur and the predictability that an officer lacking specific tools to handle, that situation will violate citizens rights could justify a finding that policy makers decision not to train the officer reflected "deliberate indifference", to the obvious consequence of the policy makers choice—namely, a violation of a specific constitutional or statutory right. The high degree of predictability may also support an inference of causation—that the municipality's indifference led directly to the very consequences that was so predictable. *Board of County Com'rs of Bryan County, OKL. V. Brown*, 520 U.S. 397, 409-10 (1997).

Viewing all claims in a light most favorable to the plaintiff, then matter of law, plaintiff is entitled to redress. It has been stipulated to that Defendant, Carlos Alvarado, was at all times relevant hereto an officer of the Newark Police Department and therefore an agent of Co-Defendant, City of Newark. City of Newark is a "Person" within the meaning of 28 U.S.C. 1983. 28 U.S.C. 1983 provides that if such deprivations should occur those persons responsible "Shall be liable to the party injured in an action at law."

Plaintiff's damages stemming from a common nucleus of operative facts, the illegal seizure of plaintiff by Defendant Alvarado as agent of Co-Defendants Newark Police Department and the City of Newark, allows for the court to hear all the claims against the Defendants.

Liability In Connection with the Actions of Another – Municipalities

The tenth circuit has created a three-part test that a plaintiff must prove in order to hold a municipality liable in a 1983 suit: (1) "The existence of a continuing, persistent and widespread practice of unconstitutional misconduct by the Municipality's employees"; (2) "Deliberate indifference to or tacit approval of such misconduct by the Municipality's policy making officials... after notice to the officials of that particular misconduct"; and (3) Injury to the plaintiff "by virtue of the unconstitutional acts pursuant to the Municipality's custom and the custom was the moving force behind the unconstitutional acts." Gates v. Unified School district, 996 F. 2d 1035, 1041 (10th Cir. 1993). According to Defendant Alvarado's Internal Affairs file, he was reported several times for his misconduct of excessive force usage, while he was continuously "exonerated". As a result, Defendant Alvarado was allowed to continue on a path of countless violations of the constitutional rights of those he sworn to protect. As Co-agents, the Newark Police Department as well as the City of Newark should assume some responsibility for failing to train, re-train, or sufficiently training and re-training Defendant Alvarado in the hope of preventing future constitutional violations by Defendant Alvarado. Internal Affairs file of Defendant Alvarado indicated that he was problematic and needed help, whether it was through counseling, training or re-training. It is suffice to say that whatever was done or not provided resulted in Defendant Alvarado's approval to continue on the path he is currently on. As Co-agents and Co-Defendants the Newark Police Department, as well as the City of Newark has to assume responsibility directly or indirectly for the continued misconduct behavioral pattern that they knew Defendant Alvarado displayed on a continuum basis. This is easily proven by Defendant Alvarado's Internal Affairs file. Exhibit D. Local entities are not entitled to immunity. Owen v. City of Independence, 445 U.S. at 657. According to the case of St. Hilaire v. City of Laconia, 71 F. 3d 20, 24 (1st Cir. 1995) Mistakes are precluded from---- deemed unreasonable, incompetence is not. "Qualified immunity protects all but---- incompetent or those who knowing violate the law." Anderson v. Creighton 635, 638 (1987), quoting Malley v. Briggs, 475 U.S. 335, 341 (1986).

In Albright v. Oliver, 510 U.S. 266, 274 (1994). The Albright court held that "Post-Arrest restraints should be viewed as Fourth Amendment violations.

Standard for a Motion to Dismiss

"The court should not grant a motion to dismiss unless it appears beyond doubt that the plaintiff cannot prove his claim under any set of facts consistent with the complaint" Brown v. Budz, 398 F. 3d 904, 908-909 (7th Cir. 2005). "[I]f it is possible to hypothesize a set of facts, consistent with the complaint, that would entitle the

plaintiff to relief, dismissal under Rule 12(b) (6) is inappropriate.' Brown, 398 F. 3d at 908" Key v. Illinois Dept. of State Police, 2006 WL 3229999 (C.A. 7th 1999).

Plaintiff provide sufficient evidence to meet the threshold requirement of the burden of production, therefore the trier of fact could decide that plaintiff is entitled to relief and this matter should proceed to trial.

Credibility and Controversy

Defendant Alvarado's event on what transpired on May 8, 2004 denotes some credibility issues that should be carefully examined by a jury of a court. Noting Defendant Alvarado's Internal Affairs file cite numerous and various infractions dealing with excessive force usage, by the citizens whom he sworn to protect. To understand Defendant Alvarado in his functions as an official of the Newark police Department, as well as an official that falls under the municipality of the City of Newark one need not go further than his Internal Affairs file. Document provided.

Therefore, as the Defendants have not met the threshold to have this matter decided by summary judgment because there are a great deal of controversial facts, this matter should be decided by a formal proceeding in the court of law by a jury.

FACTS v. FICTIONS

Plaintiff was charged with terroristic threat, obstructing, resisting arrest, and disorderly conduct. The Essex County Grand jury the week ending august 30, 2004 refused to indict on the charges of Terroristic Threat, Obstructing and Resisting arrest. On February 4, 2005 Chief Judge Shaka Taylor dismissed the charge of Disorderly Conduct.

Plaintiff had two major surgeries, with one possibly pending. On September 29, 2006 plaintiff was operated on by Dr. Pratibha Vemulapalli for an inguinal hernia. On October 30, 2006 Plaintiff was operated on by Dr. Melvin Adler for a tear of the anterior horn of the lateral meniscus.

On March 13, 2007 I was informed by Dr. Sharan that my MRI examination revealed that I had a very large herniated disc on my lumbar spine with significant compression of my S1 nerve roots. Dr. Sharan advised me that if the pain continued that either epidural injection or surgical decompression is needed. Dr. Sharan told me with the significant of pain that I was experiencing; most likely surgery would be the best route to take.

Since the incident, plaintiff is tended to by various physicians. Plaintiff is in Physical Therapy three times a week. Plaintiff is tended to by a psychologist on a weekly basis. Plaintiff is tended by an Urologist on a daily basis.

To deal with daily pain and suffering plaintiff has or is currently on these medications: Ambien 10 MG TAB, Viagra 50 MG TAB, Etodolac ER 500 MG TAB, Naproxen 500 MG TAB, Ibuprofen 400 MG TAB, Cialis 20 MG TAB, Cyclobenzaprine 10 MG TAB, and Hydrocodone/APAP 7.5/750 (WATS). I take a host of medication to ease my pain and suffering at times I am in so much pain that I have to take my Ambien medication to be able to sleep.

Since my encounter with defendant Alvarado, I have experienced an erectile dysfunction problem, as a direct result I am currently taking Viagra. My Urologist interchanged me on Cialis 20 MG TAB, another erectile dysfunction medication. This is done, to see which medication is best for me. Recently, My Urologist has also referred me to a sex therapist.

The Assistant Corporation Counsel often referred to plaintiff serious injuries as "Alleged Injuries". Even if Plaintiff was an actor, Plaintiff would not be able to fake injuries to the point of two past "Major Surgeries" possibly with another surgery down the road. Even an Oscar awarded actor would NOT be able to FAKE INJURIES to the point of two major surgeries and possibly one down the road.

Defendant Alvarado alleged that plaintiff shouted terroristic threat at him in the present of three witnesses. With the exception of his Partner, officer Lijo, no one heard plaintiff making "alleged" threat at Defendant Alvarado. "This Suspect Screamed REPEATEDLY At The Undersigned "You Don't know who hell I am!" "I Told You Get Off The Phone!" That During The Prisoner's Restance He Had Stated "You Wait And See What Will Happen To You And Your Family!" Prisoner was Placed Into A Secured Room Where He Continued To Be Verbally Abusive To The Undersigned In View Of The Hospital (Witnesses) Suspect Continued To State "I Will Fucking Kill You Mother Fucker, You'll See!" You Don't Know who The Fuck I AM!" Statement from other Witnesses in the E.R. provided. If Plaintiff was such a raving and shouting Lunatic SCREAMING all kind of terroristic threat in the presence of Defendant Alvarado, his partner, and the other witnesses in the Emergency Crisis area, why is that no one with the exception of Defendant Alvarado and his partner heard these "Alleged" terroristic threat made toward Defendant Alvarado and his family? Exhibit E. In The Police Report it is stated that plaintiff was charged with Obstruction of Administration of Law for "alleged" pointing his fingers and hands at Defendant Alvarado? Yet, beside Defendant Alvarado or possibly his partner (?) no one saw plaintiff doing the "alleged" act. In all of the charges that plaintiff was charged with, the only individual who attest to plaintiff committing these "Alleged" acts were Defendant Alvarado and his partner. Document provided. Charges were subsequently all dropped by a grand jury and Chief Judge Shaka Taylor. Defendant Alvarado even attempted to charged plaintiff with trespassing as he stated in police report "It Should Further Be

Mentioned That This Prisoner Job Title Is Patient Advocate Who Responsibility Is To Front Entrance Solely And As Per The Duty RN R. Rosheter He Had No Reason For Being In The Secured Crisis Room." As function of my responsibilities, I have total access to the "Entire" Emergency Room area. Defendant Alvarado wanted to charged plaintiff because plaintiff was doing his job according to his job function. This is exemplified by plaintiff job function. Job Function provided. In addition, plaintiff would never make such terroristic threat to a police officer. Plaintiff comes from a family of Law Enforcement. Plaintiff brother, Yves Phanor was a "Decorated" Miami Dade County officer who was killed while participating in a GOOD WILL MISSION to restore DEMOCRACY to the Island of Haiti. Plaintiff would never make such a comment to a law enforcement "brethren" especially when my family and I are still suffering from this devastating tragedy. Document provided.

In the police report, it state's that prisoner refused phone call at 2010 Hours. Document provided. That is a total fabrication. Plaintiff has never been arrested and in trouble with the law, why would plaintiff refused the "only" option of getting out of jail? Especially, when Jail is not a place that plaintiff is accustomed to. To make matters worst the following day was Mother's Day, and my mother was terminally ill with cancer. This was possibly one of the last Mother's Day Celebration that I will share with my mother, why on God's Green Earth would I refused the "ONLY" way out of getting out of jail to be with my "MOM". No "Reasonable" person would phantom that a person in jail who had a terminally ill family member would refuse the only way out of jail. I was refused a telephone call, only because I told Defendant Alvarado that I was going to report him to I.A.D. and the D.A.'s office for his misconduct. Through lie and malice intent Defendant Alvarado successfully kept me plaintiff from celebrating one of the last Mother's Day celebrations that my mother had on this earth before her passing. Unfortunately, my mother succumbed to her illness on April 13, 2006. Document provided.

During the deposition stage in one of the interrogatory questions, plaintiff asked Corporation Counsel "Has any one ever accused Carlos Alvarado, as an officer or civilian, of using unreasonable and or excessive force on or off the job (Newark Police Department)? To which they answered yes. It was after the Honorable Ronald J. Hedges, U.S.M.J. instructed Corporation Counsel to release partial segment of Defendant Alvarado's Internal Affairs file. After reviewing defendant Alvarado's Internal file, I discovered that defendant Alvarado has a past and present history of violating the constitutional rights of those he sworn to protect with excessive use of force. Defendant Alvarado's misconduct of excessive abuse has gone from bad to worst. I have provided the honorable judges of the U.S. District Court - District of New Jersey with except from Defendant Alvarado's Internal Affairs File. Since the files were released to me, I have taken great steps to protect the content of Defendant Alvarado's file. This is why I am only releasing except of defendant Alvarado's Internal Affairs file only to the honorable judges of the United States District Court- District of New Jersey. Document provided.

Conclusion

Plaintiff was charged with four infractions by defendant Alvarado. Three of the charges went to a Grand jury and was subsequently dropped. The fourth charge was dismissed by Chief Judge Shaka Taylor. Plaintiff had two major operations and possibly a third operation down the road. Plaintiff is tended by various physicians on a daily basis; Psychologist, Urologist, orthopedic surgeon, Physical Therapist, etc. Plaintiff is taking a host of different medications for his pain and suffering as stated above. Plaintiff pain and suffering is so excruciating, that plaintiff has commenced paperwork to go out on disability sick leave. Plaintiff pain and suffering came after plaintiff's encounter with Defendant Alvarado. When it comes to Defendant Alvarado's past abuse and aggression, His Internal Affairs file speaks the FACTS loud and clear.

Wherefore, Plaintiff prays that defendants motion for Summary Judgment be Denied on all claim.

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Legal Argument

Point One - Fourth Amendment/ Fourteenth Amendment & Excessive Force. The fourth Amendment's proscription of unreasonable seizures of person or the Fourteenth Amendment's guarantee that no state will deprive a citizen of liberty without due process of the law.

Point Two - Municipality Liability. Failure to train police officer's only give rise to a constitutional violation...

Point Three - Qualified Immunity. Clause is shut down if a district court found genuine factual disputes exist.

Point Four – Malicious Prosecution. Need to produce evidence that would raise a genuine issue of material fact...

Point Five – False Imprisonment and the Application of Qualified Immunity. An unlawful arrest and detention by a police officer affected under color of state law gives rise to an action under section 1983 for deprivation of a federally protected right.

Point Six – Malicious prosecution and the Application of Qualified Immunity. A violation of the Fourth Amendment and a viable constitution tort cognizable under section 1983.

Point Seven – Municipal Liability and Qualified Immunity. Governmental entities may be held liable under 42 U.S.C., 1983 only when a governmental “Policy or Custom” is the moving force behind the constitutional deprivation.

Point Eight – Liability in Connection with the Actions of Another – To hold a Municipality liable in a 1983 suit...

Point Nine – Standard for a Motion to Dismiss. If Plaintiff is able to prove his case, then the Court should not dismiss case.

Point Ten – Credibility and Controversy. Should be carefully examined by a Jury of a court.

Point Eleven – Facts v. Fiction. Plaintiff’s ordeal.

Conclusion

OFFICE OF THE PROSECUTOR
COUNTY OF ESSEX
ESSEX COUNTY NEW COURTS BLDG
NEWARK NJ 07102-0000
FAX: 973-621-6150
973-621-4700

EVANS FANOR
156 IVY ST
NEWARK NJ 071020000

OFFICE OF VICTIM-WITNESS ADVOCACY
AUGUST 30, 2004
PROSECUTOR FILE #: 04-004240
MUNICIPAL DOCKET #: 002

STATE VS. FANOR
RE: EVANS FANOR

DEAR EVANS FANOR

THE ESSEX COUNTY GRAND JURY HAS REVIEWED THE ABOVE MATTER AND CONSIDERED THE EVIDENCE INVOLVED. AS A RESULT OF ITS REVIEW, THE GRAND JURY DID NOT FIND PROBABLE CAUSE FOR THE RETURN OF AN INDICTMENT. THEREFORE, CRIMINAL PROSECUTION WILL NOT BE PURSUED AND THE CASE WILL BE CLOSED. YOUR ASSISTANCE AS A WITNESS IN PREPARING THE CASE FOR PRESENTATION TO THE GRAND JURY IS GREATLY APPRECIATED.

WE ARE SORRY WE CANNOT GO INTO DETAIL AS TO WHY THE GRAND JURY DID NOT INDICT IN THIS CASE, SINCE BY STATUTE THE PROSECUTORS NOT PERMITTED TO DISCUSS THE PROCEEDINGS OF THE GRAND JURY. WE CAN SAY, HOWEVER, THAT THE USUAL REASON FOR REFUSAL TO AUTHORIZE CRIMINAL CHARGES IS THAT THERE IS INSUFFICIENT EVIDENCE.

TO INQUIRE ABOUT THE RETURN OF PROPERTY HELD IN EVIDENCE OR IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE OFFICE OF VICTIM-WITNESS ADVOCACY AT 973-621-4687.

THANK YOU FOR YOUR CONTINUED INTEREST AND COOPERATION.

VERY TRULY YOURS,

PAULA T DOW, ACTING
COUNTY PROSECUTOR

PAMELA M MCCAULEY
VICTIM-WITNESS COORDINATOR



MONTEFIORE MEDICAL
CENTER

The University Hospital
For the Albert Einstein
College of Medicine

THE CENTER FOR
ORTHOPAEDIC SPECIALTIES
AT MONTEFIORE



ALBERT EINSTEIN
COLLEGE OF MEDICINE
OF YESHIVA UNIVERSITY

ALOK D. SHARAN, M.D.
Chief, Orthopaedic Spine Service
Assistant Professor of Orthopaedic
Surgery

March 13, 2007

Jorge Orellana, M.D.
First Medicare
8707 Flatlands Ave
Brooklyn, NY 11236

Re: Evans Fanor
Date of Birth: 01/30/1970
Date of Visit: March 13, 2007

Dear Dr. Orellana:

Thank you very much for this kind consultation on Evans Fanor. As you know, Mr. Fanor is a pleasant 37-year-old gentleman who unfortunately has been suffering from significant pain in his back with radiation down both of his legs for over 6 months now. He does have some numbness and tingling associated with this. Most of the pain is in his legs, although he has a significant component in his back. No difficulty with bowel or bladder symptoms, just has this back pain. He has had right knee surgery previously, which has helped his knee pain, but has not helped his back pain. Standing, walking, leaning forward, lying on his side, lying on his back, lying on his stomach aggravates his pain, where as sitting helps relieve his pain. He has tried muscle relaxants, narcotic pain medications, hot packs, and ice, which have been somewhat helpful for him.

Past Medical History: Significant for diabetes.

Past Surgical History: Includes abdominal surgery and knee surgery.

Medications: Viagra, Ibuprofen, Zyrtec, Glucovance, and Ambien.

Allergies: Seasonal.

Social History: Works in Newark at UMDNJ. He is single and has no children. He lives with his Aunt in a house. Never smoked, never drank, never had a problem with drug dependence.

The Tower at Montefiore Medical Park
1695 Eastchester Road
Bronx, New York 10461
718-405-8427 Office
718-405-8174 Fax

3400 Bainbridge Avenue 6th Floor
Bronx, New York 10467-2491
718-920-2060 Office
718-325-0678 Fax

Re: Evans Fanor

Page 2

Family History: Significant for high blood pressure and diabetes.

Review of Systems: He notes that he has muscle aches.

Physical Examination: On physical exam, Mr. Fanor walks with a normal gait. When I asked him to stand on his toes, he does have some increased pain. He does have pain when standing on his heel also. He has a positive straight leg raise bilaterally. No pain with internal or external rotation of both of his hips. Testing of his sensation reveals decreased sensation over the dorsum of his right foot. Motor strength testing reveals 4/5 strength in his dorsiflexors, his EHL on his right foot, also 4/5 strength in his EHL and dorsiflexors on his left side.

X-rays: He had an MRI done of his lumbar spine, which reveals a large L5-S1 disc herniation with significant compression of his S1 nerve roots.

Impression: Herniated disc, L5-S1.

Plan: I went over the diagnosis of herniated disc with Mr. Fanor. I went over the natural history of the herniated disc. He has had 6 months of pain and has tried physical therapy for 5 months. I presented the option of an epidural injection or surgical decompression. At this point, Mr. Fanor is interested in continuing with his physical therapy. He will come back to see us in 2 months time for further follow up. If his pain continues to persist at that time, we will obtain a decision of doing either an epidural injection or a surgical decompression.

Thank you again for allowing me to participate in the care of this very kind gentleman.

THIS REPORT WAS ELECTRONICALLY SIGNED

Sincerely,

Alok Sharan, MD

ALOK SHARAN, M.D.
3400 Bainbridge Avenue
Bronx, NY 10467

sx

Voice ID#: 6590697

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MONTETIORE MEDICAL CENTER
The University Hospital
for the Albert Einstein
College of Medicine

DEPARTMENT OF SURGERY



ALBERT EINSTEIN
COLLEGE OF MEDICINE
OF YESHIVA UNIVERSITY

PRATIBHA VEMULAPALLI, M.D.
Minimally Invasive Surgery
Bariatric Surgery

September 27, 2006

Re: Evans, Fanor

To Whom It May Concern:

This letter is to certify that the above named patient will be admitted to Montefiore Medical Center on September 29, 2006 for major abdominal surgery. Mr. Evans has been diagnosed with an inguinal hernia (550.90). The recuperation time for this procedure is approximately 2-3 weeks, however the decision is made once the patient has been seen in the office for their post- operative appointment.

If there is any further information required, please do not hesitate to get in touch with this office at 718-920-4800.

Sincerely,

Pratibha Vemulapalli, M.D.
Department of Surgery
Division of Bariatrics
MMC

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MELVIN ADLER, M.D.
Department of Orthopaedic Surgery
Adult Reconstructive Surgery

October 2, 2006

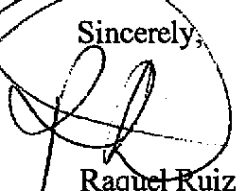
To Whom This May Concern:

Re: Evan Fanor
SS#: 059604017

This is to certify that the above-named patient is under the care of Dr. Melvin Adler since August 17, 2006 for the right knee, which showed on MRI a tear of the anterior horn of the lateral meniscus. (ICD-9: 836.0/836.1)

He is scheduled for arthroscopic surgery of his right knee. At this point, he has limitations in climbing, bending, kneeling and going up and down stairs. After the surgery Mr. Fanor should be out of work for approximately six weeks to recover.

If you have any questions, please contact our office at 718-920-2060

Sincerely,

Raquel Ruiz
Patient Service Liaison

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Optimum Psychological Services, PLLC
833 58th Street, Suite 3R
Brooklyn, NY 11220
Tel: (718)437-3558 Fax: (718)437-6368

October 17, 2006

Re: Fanor, Evans (DOB: 1/30/70)

To Whom It May Concern:

Please be informed that Mr. Evans Fanor is currently under my care for treatment of Post-Traumatic Stress Disorder. He receives weekly individual psychotherapy. His prognosis is good if he continues to comply with treatment.

Sincerely,



Eva Ng, Psy. D.
NYS Licensed Psychologist



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**PHYSICAL THERAPY &
SPORTS REHAB OF
NEW YORK, P.C.**

1958 UTICA AVENUE, BROOKLYN, NEW YORK 11234

718 - 629-0472

Fax 718 - 629-0482

LEONARD BROWN PT
STUART HOFFMAN OTR
DENNIS SMITH PT

OCT. 25, 2006

TO WHOM IT MAY CONCERN:

MR. EVANS FANOR RESUMED PHYSICAL THERAPY. HE WILL BE COMING FOR
PHYSICAL THERAPY 2 TO 3 PER WEEK DUE TO A TEAR IN HIS KNEE.

SINCERELY,
CAROL
OFFICE MGR

25
Patient: Fanor, Evans
MD ED: _____
Res/PA/NP: Holloway, Betty APN

DI Printed: 6/28/2004 12:52pm

RN Dispo: _____

AFTERCARE INSTRUCTIONS

We are pleased to have been able to provide you with emergency care. Please review these instructions when you return home in order to better understand your diagnosis and the necessary further treatment and precautions related to your condition. Your diagnoses/prescriptions today are:

Dx 1: Bronchitis, Chronic ; Resolving from 6/9/04
Misc Instr 1: Seen and treated for Bronchitis with zithromax Z pack 2 week
Med Instr 1: Tri-Tuss ER one twice daily

General Information on BRONCHITIS

Bronchitis is an infection of the main air passages in the lungs (bronchi), caused by the growth of certain germs. Anyone can develop bronchitis, but it occurs far more often in people who smoke. In fact, some smokers develop a persistent form of the disease called chronic bronchitis.

What are the symptoms?

Bronchitis often develops after the onset of a common cold. There may be a runny nose, chills, fever, muscle aches and a sore throat. There may also be a sore feeling in the upper chest that gets worse with coughing. In adults, the coughing usually brings up gray or yellow material (sputum, phlegm) from deep inside the lungs.

What can be done?

Some types of bronchitis are caused by germs that can be treated with antibiotic medication, but many types of bronchitis do not improve with antibiotics. Your doctor will determine if antibiotics are appropriate for you.

What are the risks?

Bronchitis usually gets better within several days and does not ordinarily produce any serious medical problems. There are, however, some risks:

1. Occasionally people with bronchitis also develop an infection of the lungs (called pneumonia). This can be a serious problem.
2. Bronchitis frequently worsens the symptoms of asthma, emphysema or heart failure. For people with these conditions, bronchitis can be serious or sometimes even life threatening.

INSTRUCTIONS

- 1) *** DON'T SMOKE! ***
- 2) Rest.
- 3) Drink plenty of fluid to help avoid dehydration.
- 4) If you are not allergic to them, you may take acetaminophen (Tylenol) or aspirin to help ease the pain and lower the fever. WARNING: DON'T GIVE ASPIRIN TO ANYONE LESS THAN 18 YEARS OLD.
- 5) A cold mist humidifier or vaporizer may help loosen secretions.
- 6) SEEK IMMEDIATE MEDICAL ATTENTION if you develop a high fever, difficulty breathing, chest pain or cough up blood.

Follow-up 1: Primary Care Physician

F/U MD Ph: _____

F/U MD Fax: _____

Follow-up 1 Date: Call for an Appointment

The University Hospital - Emergency Department
150 Bergen St., Newark, NJ 07103
Main ED - (973) 972-5123
Trauma ED - (973) 972-2664
Peds - (973) 972-5139
Fast Track - (973) 972-3342
Psych - (973) 972-6134

Non-School Injury

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Patient: Fanor, Evans

6/28/2004 12:52pm

May return to work/school: _____

Restrictions: None

Follow-up 1: Primary Care Physician

F/U MD Ph: _____

F/U MD Fax: _____

Follow-up 1 Date: Call for an Appointment

Note to Employer / School Official:

The patient named above was seen in our Emergency Department today. Recommended restrictions on activity and recommended follow-up are listed above. At the time of the follow-up visit, the physician may decide that further restrictions are necessary.

Signature: _____

B. Hollmeyer

Administration::Management of Environment Care (EC)::Use of Cellular Phones & Other Radio Transmitters in Patient Care Areas - Issue No. 831-200-098

Use of Cellular Phones & Other Radio Transmitters in Patient Care Areas - Issue No. 831-200-098

Version No: 002 Date Issued: 2/9/1996
Date Approved: 2/9/1996 Approved By: Administration
Date(s) Revised: 2/3/1999, 11/1/2001
Revised By:
Comments: revision

POLICY AND PROCEDURE MANUAL

DEPARTMENT: Administration	ISSUE NO. 831-200-098
EFFECTIVE DATE: November 1, 2001	SUPERSEDES DATE: February 3, 1999

SUBJECT:

Use of Cellular Phones

PURPOSE:

To provide for a safe environment in patient care areas by avoiding interference problems between radio frequency transmission devices and patient care equipment.

RESPONSIBILITY:

The Chief Executive Officer, all members of staff, medical and administrative and the Director of Public Safety are to ensure hospital compliance.

POLICY:

University Hospital prohibits the use of cellular phones in patient care areas. Cellular phones should be turned completely off, not in the standby position, before entering any patient care area. Other hand held radios or communication devices should not be keyed or activated within three (3) feet of the patient care areas.

PROCEDURE:

- 1) The Admitting Department will inform all patients and visitors in areas identified as non use areas that cellular phones or similar devices areas are not permitted. The nurse manager or their designee for patient care area is responsible for enforcing this policy.
- 2) If anyone enters a patient care area and has a radio transmitting device, they are to

be notified that they must turn off the device before entering the patient care area. Radio transmitting devices include, but are not limited to, cellular phones and walkie-talkies.

3) Signs will be posted outside all patient care areas concerning the ban on radio frequency transmitters. Similar information will also be on the Condition of Admission to the University Hospital form.

APPROVALS BY:	NAME	SIGNATURE:
Vice President and Chief Executive Officer	Sidney Mitchell, FACHE	
Chief Operating Officer	Marianne McConnell, CHE	
Interim Director, Hospital Support Services	Raafat Boles	

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DEPARTMENT OF PUBLIC SAFETY

ADMINISTRATIVE SUBMISSION

CAMPUS NJ 1

TO: Sgt. Yelverton
FROM: S/O Ellis G. Haynes

SUBJECT: Terroristic Threat Log # 56-04

At the Above Complaint Date And time
Mention The undersigned officer did not
witness or hear Mr. Evans Patient Advocate Made
Any Type of Terroristic Threat toward the
Newark Police Officer while assigned to
the UH Emergency Room Crisis Unit
Report Submitted.

Rank & Signature S/O Ellis G. Haynes
Reporting Officer

Report Time Date
Prepared 1800 5/17/04

Rank & Signature [Signature]
Reporting Supervisor

Report
Approved 2.13 5/17/04



WHITE - RECORDS BUREAU
YELLOW - DIRECTOR
ORANGE - CAMPUS COMMAND
GOLD - CAPTAIN SUPERVISOR
PINK - MEMBER

Memo

5/8/04

Statement of incident on this date

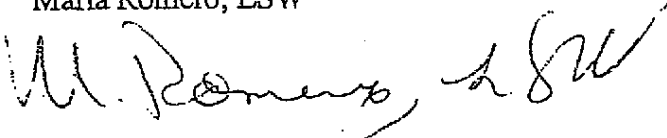
Observer's Name: Maria Romero

Title: Mental Health clinician III

Observation:

This person observed Mr. Fanor sitting on a chair, with handcuff on. Police officer was in the process of frisking Mr. Fanor. Mr. Fanor was talking to the officer however, this observer could not hear what he was saying. The officer responded "are you threatening me?" Mr. Fanor responded again in a low tone of voice. Once again this observer could't hear Mr. Fanor's answer. Following this incident Mr. Fanor was moved to a patient's room and the officer closed the door behind him. Mr. Fanor and the officer could be observed talking however, you could't hear what they were saying.

Maria Romero, LSW



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To whom it may concern

On 05/08/04 while working in PLS (C224)

the main door opened and I

heard inaudible words ~~where~~ Deform

a patient and ~~estate~~ advocate and

on Newark Police Officers. The officer

then stated "your industry arrest"

more inaudible words were

exchanged between the patient and advocate

& the officer. I notified

C Percell AHN. The patient, your

advocate was escorted out of

PLS in custody of NPD

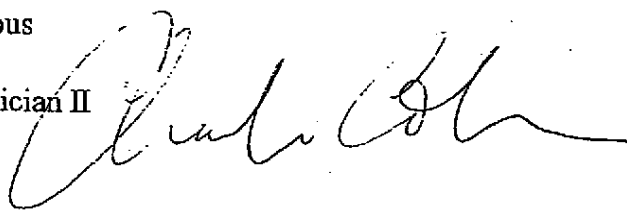
Respectfully submitted



R. S. Roshetor RN

TO: Administration UMDNJ- Newark Campus

FROM: Charles Cohen - Mental Health Clinician II
UBHC - PES



DATE: May 8, 2004

SUBJECT: Arrest of Evan Fanor in the PES Unit

At around 6:30 pm on the above date I witnessed the Newark Police Officer arresting Mr. Fanor. He stood over Mr. Fanor speaking to him in an angry demeanor he stated that was arresting Mr. Fanor for resisting arrest and made reference to two other charges. He handcuffed Mr. Fanor behind his back and sat him in a chair. He was later stood up and had his pockets emptied. Mr. Fanor was questioning why he was being arrested in a high pitched voice. The arresting officer was shouting back that he was charged with resisting arrest. At no time did I hear the arresting officer read Mr. Fanor his Miranda rights.

FILL OUT COMPLETE REPORT WHEN LISTED IN CLASSIFICATION LIST AND REPORT GUIDE AS 802 (NO ASTERISK).
DO NOT FILL OUT SHADED PORTION WHEN LISTED 802 * (WITH ASTERISK).

1. VICTIM'S OR COMPLAINANT'S NAME UNIT 316 ALVARADO & LIJO		2. TELEPHONE NO. 973.733.6190		17. STATUTE OF ORIGINANCE 2C-12-3		18. SECTOR 316		19. DISTRICT NO. 610/H6		20. CENT. COMPL. NO. 04-46436	
3. RESIDENCE NUMBER 649 MARKET ST. NEWARK, N.J.		4. FLOOR OR APT. 2		21. REPORTING OFFICER (NAME) P.O. ALVARADO #9051		22. INCIDENT 1st. Thru		23. LOCATION 150 BERGEN ST. NEWARK, N.J.		24. TIME OF OCCURRENCE (ON OR BET.) HOUR: APPROX DAY OF WEEK: SAT MONTH: 05 DAY: 08 YEAR: 2004	
4. SEX POLICE OFFICERS		5. RACE POLICE OFFICERS		6. AGE POLICE OFFICERS		7. OCCUPATION POLICE OFFICERS		8. INJURY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		22A. OCCURRED ON PUBLIC HOUSING PROPERTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
9. SOBRIETY OF VICTIM <input checked="" type="checkbox"/> SOBER <input type="checkbox"/> HAD BEEN DRINKING <input type="checkbox"/> INTOXICATED		10. CAN VICT. IDENT. OFFENDER <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		11. PERSON REPORTING CRIME S A#1		12. TELEPHONE NO. S A#2		13. RESIDENCE OF PERSON REPORTING CRIME S A#3		14. TIME REPT 1855	
15. MONTH 05		16. DAY 08		17. YEAR 2004		18. OCCURRED ON VIEW <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		19. HOW ATTACKED PHYSICAL FORCE		20. OBJECT OF ATTACK (IF VEHICLE AND THEFT DEVICE INSTALLED) DISORDERLY PERSON	
21. VEHICLE INVOLVED IN CRIME <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		22. YEAR NA		23. MAKE NA		24. MODEL NA		25. LIC. NUMBER NA		26. STATE NA	
27. COLOR NA		28. BODY TYPE NA		29. VEHICLE VIN NUMBERS NA		30. NAME OF SUSPECT EVANS PANOR (BLK#38)		31. (ALIAS) NA		32. (RES- DENCE) NA	
33. SEX M		34. RACE BLK		35. AGE 34		36. HEIGHT 5'11		37. WEIGHT 260		38. COLOR OF HAIR bald	
39. COLOR OF EYES brown		40. DESCRIBE CLOTHING WORN AND PECULIARITIES BLK PANTS, BLK JACKET, BL SHIRT, BN SHOES		41. 34A. STRANGER TO CRIME <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		42. 34B. OUTLAW LEN# NA		43. 34C. REPORT SOURCE <input type="checkbox"/> DISPATCH <input type="checkbox"/> PHONE <input type="checkbox"/> WALK-IN <input checked="" type="checkbox"/> OTHER		44. 34D. VEHICLE INSURANCE COMPANY & POLICE NUMBER PA	
<p>event#193472 OFFICERS OF UNIT 316 ALVARADO & LIJO WHILE ON A PRISONER WATCH TOOK A POLICE ACTION ON DISORDERLY PERSONS AT THE ABOVE LOCATION. THIS UNDERSIGNED WHILE ON A PRISONER WATCH IN CRISIS UNDER EVENT #193353 AS THE PRISONER WAS SEDATED THIS UNDERSIGNED WAS CONVERSING WITH THE SUPERVISOR UNIT#303 E. BORGER OVER A PRIOR ASSIGNMENT WHILE IN ACCORDANCE WITH THE DIRECTOR'S MEMORANDUM OUT OF THE PUBLIC'S VIEW AND ADMINISTERING DISCRETION THIS UNDERSIGNED WAS APPROACH BY THE SUSPECT IN A HOSTILE THREATENING MANNER RAISING HIS HANDS AT THE OFFICERS FACE WITHIN INCHES OF HIS FACE SCREAMING "HANG UP THE PHONE!" THIS SUSPECT WAS SO CLOSE TO THIS UNDERSIGNED THAT HIS MOUTH'S SALIVA WAS REACHING THIS OFFICER'S FACE. THIS UNDERSIGNED INSTRUCTED THE SUSPE TO REFRAIN FROM HIS ABUSIVE AND THREATENING BEHAVIOR. SUSPECT THEN CONTINUED BECOMING PHYSICALL DANGEROUS AS HIS MANNERISM BECAME VIOLENT. THIS UNDERSIGNED ATTEMPTED TO INSTRUCT THE SUSPECT THAT THE RN R. ROSHETER (NURSE IN CHARGE) GAVE THIS UNDERSIGNED PERMISSION TO USE HIS CELLULAR</p>											
35. ESTIMATED VALUE BY TYPE OF PROPERTY NA		36. CURRENCY NA		37. JEWELRY NA		38. FURS NA		39. CLOTHING NA		40. LOCAL AUTOS NA	
41. MISCELLANEOUS NA		42. 36. OTHER OFFICERS AT SCENE (NAME) P.O. ALBERTO LIJO		43. VEH. NO. 316		44. COMMAND EAST DISTRICT		45. I.D. NO. 8052		46. 37. OTHER REPORTS SUBMITTED <input type="checkbox"/> OP 1:152 PROPERTY <input type="checkbox"/> OP 1:152-1 AUTO <input type="checkbox"/> OP 1:225A STATEMENT <input type="checkbox"/> OP 1:800 ARREST <input checked="" type="checkbox"/> OP 1:795 CONT.	
47. 38. PERSONS ARRESTED (NAME) EVANS PANOR		48. CENT. ARR. NO. 12188		49. 39. WITNESSES (NAME AND RESIDENCE) SECURITY OFFICER E. HAYNES/150 BERGEN ST. NWK		50. (TELEPHONE NO.) NA		51. 40. RN ROBERT J. ROSHETER /150 BERGEN ST. NEWARK, NJ		52. 41. MENTAL HEALTH MARIA ROMERO/150 BERGENST. NEWARK, NJ	
53. 42. TELETYPE ALARM NUMBER NA		54. 43. NAME OR DETECTIVE NOTIFIED NA		55. 44. SIGNATURE OF REPORTING OFFICER P.O. ALVARADO #9051		56. 45. CLEARED BY ARREST OF (CHECK APPROPRIATE BOX OR BOXES) <input type="checkbox"/> ADULT <input type="checkbox"/> JUVENILE <input type="checkbox"/> ADULT AND JUVENILE <input type="checkbox"/> NARCOTIC OFFENDER		57. 46. KEY-PUNCHED BY: NA		58. 47. VERIFIED BY: NA	
59. 48. STATUS OF OFFENSE <input type="checkbox"/> UNFOUNDED <input checked="" type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> NOT CLEARED <input type="checkbox"/> EXCEPTIONAL CLEARANCE		60. 49. STATUS OF CASE <input type="checkbox"/> PENDING ACTIVE <input type="checkbox"/> PENDING INACTIVE <input checked="" type="checkbox"/> CLOSED		61. 50. SUPERVISOR APPROVING & CLASSIFYING (DATE) 5-8-04		62. 51. TIME APPROVED 2301		63. 52. INDEXED BY: NA		64. 53. NUMBER OF PAGES 19/2	

SPECIFIC OFFENSE

TEAR DRAWS.

DIST. COMPL. NO.

610110

CENTRAL COMPLAINT NO.

04-46436

STATUTE OR ORDINANCE (R.S. N.J.S. REV. ORD.)

2C:12-3

LOCATION OF OFFENSE

150 BERGEN ST. NEWARK, N.J.

DATE OF OCCURRENCE

05/08/04

EVENT#193472 WITHIN THE CRISIS HOLDING AREA RM#C-224A WHICH HAS CONTROL ACCESS AND IS RESTRICTED TO THE PUBLIC. SUSPECT CONTINUED HIS VIOLENT BEHAVIOR AT THE UNDERSIGNED AS HE WAS INSTRUCTED REPEATEDLY TO REFRAIN. THIS SUSPECT SCREAMED REATEDLY AT THE UNDERSIGNED "YOU DONT KNOW WHO HELL I AM !" "I TOLD YOU GET OFF THE PHONE!" AT THIS POINT THIS UNDERSIGNED ATTEMPTED TO PLACED THE SUSPECT INTO POLICE ARREST AS BEGAN TO FLAIR HIS ARMS AT THIS UNDERSIGNED AND PARTNER . SUSPECT ATTEMPTED TO PUSH OFFICERS TO PREVENT A LAWFULL ARREST AS A COMPLIANCE HOLD TO THE SUSPECT ARMS EFFECTED THE ARREST WITHOUT FURTHER INCIDENT. IT SHOULD FURTHER BE MENTIONED THAT DURING THE PRISONER'S RESTANCE HE HAD STATED " YOU WAIT AND SEE WHAT WILL HAPPEN TO YOU AND YOUR FAMILY!" PRISONER WAS PLACED INTO A SECURED ROOM WHERE HE CONTINUED TO BE VERBALLY ABUSIVE TO THE UNDERSIGNED IN VIEW OF THE HOSPITAL (WITNESSES) SUSPECT CONTINUED TO STATE "I WILL FUCKING KILL YOU MOTHER FUCKER, YOU'LL SEE !" " YOU DONT KNOW WHO THE FAUCK I AM!" PRISONER WAS TRANSPORTED TO THE EAST FOR PROCESSING IN THE HOLDING CELL AND DURING PROCESSING THE PRISONER CONTINUED HIS THREATS AND WITH HIS LEFT HAND MADE AS IF HE WAS SHOOTING A HAND GUN AT THIS UNDERSIGNED . IT SHOULD FURTHER BE MENTIONED THAT THIS PRISONER JOB TITLE IS PATIENT ADVOCATE WHO RESPONSIBILITY IS TO FRONT ENTRANCE SOLEY AND AS PER THE DUTY RN R. ROSHETER HE HAD NO REASON FOR BEING IN THE SECURED CRISIS ROOM. IT SHOULD ALSO BE FURTHER MENTIONED THAT THE SECURITY GUARD (WITNESS) ALSO INSTRUCTED THE SUSPECT TO COMPLY AND REFRAIN FROM HIS INTIMIDATING VIOLENT BEHAVIOR ASWELL AS HIS VERBAL THREATS. THIS UNDERSIGNED OBTAINED A USE OF FORCE #191 FOR THE COMPLAINEE HOLD UTILIZED TO EFFECT THE ARREST.

AMENDED PROPERTY VALUATION	A CURRENCY	B JEWELRY	C FURS	D CLOTHING	E LOCAL AUTO	F MISCELLANEOUS	G TOTALS
							N/A
SIGNATURE OF OFFICER SUBMITTING REPORT							COMMAND
							EAST
BADGE NUMBER							9051
STATUS OF OFFENSE				STATUS OF CASE			
<input type="checkbox"/> UNFOUNDED <input checked="" type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> NOT CLEARED <input checked="" type="checkbox"/> EXCEPTIONALLY CLEARED				<input type="checkbox"/> PENDING ACTIVE <input type="checkbox"/> PENDING INACTIVE <input checked="" type="checkbox"/> CLOSED			
LEARNED BY ARREST OF				CLASSIFICATION			
<input type="checkbox"/> JUV <input checked="" type="checkbox"/> ADULT <input type="checkbox"/> JUV & ADULT <input type="checkbox"/> NARCOTIC OFFENDER				2690			
LEAD CLASSIFIED AND APPROVED BY				RECLASSIFICATION			
LEUT. [Signature]				INDEXED BY			
DATE				FILED BY			
5-8-04				PAGE NUMBER			
				NO OF PAGES			
				272			

POLICE DEPARTMENT		35		ADDRESS RECORD		NEWARK, N.J.	
1. PRISONER'S LAST NAME FANOR		2. TIME AND DATE OF ARREST 1901 05-08-04		3. DIST. COMPT. NO. 6-10416		4. CENT. ARREST NO. 12188 A-2	
7. PRISONER'S ADDRESS 156 IVY STREET NEWARK, N.J.		8. FLR.		9. APT.		10. ALIASES (OR MAIDEN NAME IF FEMALE)	
13. WHERE ARRESTED: 150 BERGEN STREET		14. DATE OF BIRTH 01-30-70		15. PLACE OF BIRTH BROOKLYN N.Y.		16. AGE 34	
22. RACE BK		23. SEX M		24. <input checked="" type="checkbox"/> HISPANIC <input checked="" type="checkbox"/> NON HISPANIC		25. <input checked="" type="checkbox"/> MARRIED <input checked="" type="checkbox"/> SINGLE	
26. CLOTHING BK PANTS, BK JACKET, BU SHOES, BL SHIRT		27. CDR #1 or CITY ORDNANCE SUM# - S. SUM# - S.		28. SOC. SEC. NUMBER 059-60-4017		29. DRIVERS LICENSE NO. NONE	
30. STATE		31. VEH. REG. NO.		32. SCHOOL AND GRADE OF JUVENILE NONE		33. CDR #2 04-014522	
34. OCCUPATION ADVOCACY		35. NAME OF EMPLOYER OR GOVERNMENT AGENCY UMDNJ		36. SCARS, MARKS AND OTHER DESCRIPTIVE DATA NONE		37. SPECIFIC OFFENSE: TERRORISTIC THREATS	
38. TIME AND DATE OF OCCURRENCE: 1901 05-08-04		39. TYPE OF PREMISES HOSPITAL		40. PLACE OF OCCURRENCE 150 BERGEN STREET		41. OCCURRED ON PUBLIC HOUSING PROPERTY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
42. VICTIM OR COMPLAINANT'S NAME: UNIT 316 (C.ALVARADO/A.LIJO)		43. VICTIM OR COMPLAINANT'S ADDRESS: 649 MARKET STREET		44. COMPLTS. TEL. NO'S: HOME & BUSINESS (973) 733 / 6190		45. DETAILS OF ARREST: EVENT # 193472 THE ABOVE INDIVIDUAL WAS ARRESTED FOR TERRORISTIC THREATS AFTER HE STATED TO P/O C. ALVARADO "I'M GOING TO FUCKING KILL YOU AND YOUR FAMILY MOTHER FUCKER!" AND MAKING A HAND GESTURES AS SHOOTING A HAND GUN AT THE ARREST OFFICER.	
46. STRANGER TO STRANGER CRIME <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		47. CHECK REPORTS SUB. <input checked="" type="checkbox"/> DP 1:802 <input checked="" type="checkbox"/> DP 1:795 NUTR-1 NP 1:1001 DP 1:1517 DP 1:152 DP 1:152:1 DP 1:225A <input checked="" type="checkbox"/> CDR <input checked="" type="checkbox"/> 1755		48. OTHER PERSON ARRESTED (NAME) NONE		49. CENT. ARREST NO. ---	
50. OTHER PERSON ARRESTED (NAME) NONE		51. CENT. ARREST NO. ---		52. RESULTS OF RECORD CHECK: <input type="checkbox"/> RECORD <input checked="" type="checkbox"/> NO RECORD		53. IS PRISONER WANTED? NO	
54. IF WANTED, BY WHOM?		55. WHO WAS NOTIFIED?		56. DET. NOTIFIED		57. PARENTS OF JUV. NOTIFIED BY:	
58. JUV. RELEASED TO / RELATIONSHIP		59. ADDRESS PERSON RELEASED TO		60. HOME TELEPHONE NUMBER		61. BUSINESS TELEPHONE	
62. JUVENILE DETAINED AT:		63. PRISONER TO BE FINGERPRINTED: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		64. PRISONER TO BE PHOTOGRAPHED: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		65. PRISONER SEARCHED BY: P/O A.LIJO	
66. MONEY IN PRISONER'S POSSESSION \$56.25		67. RESTRICTIONS <input type="checkbox"/> YES <input type="checkbox"/> NO		68. RESERVED		69. SIGNATURE OF ARRESTING OFFICER C. ALVARADO/A.LIJO	
70. READ, CLASSIFIED AND APPROVED BY LIEUT. 30		71. INVESTIGATION ASSIGNED TO:		72. INVESTIGATION COMPLETED		73. ARRANGMENT (DATE)	
74. COURT		75. AMOUNT OF BAIL:		76. BAIL SET OR PAROLED BY:		77. SIGNATURE OF PERSON PAROLED TO:	
78. LIEUTENANT ACCEPTING BAIL: OR PAROLING PRISONER		79. COMMITTED IN DEFAULT OF BAIL <input type="checkbox"/> YES <input type="checkbox"/> NO		80. COMMITTED WITHOUT BAIL <input type="checkbox"/> YES <input type="checkbox"/> NO		81. DIRECTLY TO ARRANGMENT <input type="checkbox"/> YES <input type="checkbox"/> NO	
82. OFFICER IN CHARGE OF PRISONER		83. SENT TO CELL BLOCK BY LT. TORRES		84. RECEIVED AT CELL BLOCK BY: M. Torres		85. TIME & DATE REC 004057-04	
86. CELL NO. 5		87. TIME AND DATE TO COURT: OFFICER		88. POSTPONED TO		89. TIME AND DATE FROM COURT: OFFICER	
90. PREVIOUS ARRESTS FOR BAIL DETERMINATION		91. TIME AND DATE OF JAIL: OFFICER		92. RESERVED		93. F.P. NO.	
94. INDEXED BY:		95. MICRO PROCESSED BY:		96. RESERVED		97. FINGERPRINTED BY	
98. PHOTOGRAPHED BY:		99. GAL. NO.		100. S.B. NO.		101. F.B.I. NO. 216216D	

POLICE DEPARTMENT										ARREST REPORT										NEW YORK, N.Y.									
PRISONER'S LAST NAME										PRISONER'S FIRST NAME										PRISONER'S MIDDLE NAME									
FAMOR										EVING										1901 05-08-04									
7. PRISONER'S ADDRESS										156 IVY STREET										NEWARK, N.J.									
13. WHERE ARRESTED										150 BERGEN STREET										14. DATE OF BIRTH									
15. PLACE OF BIRTH										BROOKLYN N.Y.										16. AGE									
17. HEIGHT										5'11"										18. WEIGHT									
19. HAIR										BK										20. EYES									
21. COMPLEXION										DARK										22. RACE									
23. SEX										M										24. IS HISPANIC									
25. IS MARRIED										SINGLE										26. CLOTHING									
27. CDR #1 or CITY ORDNANCE										SUM# - S 014747										28. SOC. SEC. NUMBER									
29. DRIVER'S LICENSE NO.										NONE										30. STATE									
31. VEH. REG. NO.										32. SCHOOL AND GRADE OF JUVENILE										33. CDR #2									
34. OCCUPATION										ADVOCACY										35. NAME OF EMPLOYER OR GOVERNMENT AGENCY									
36. SCARS, MARKS AND OTHER DESCRIPTIVE DATA										NONE										37. CDR #1 or CITY ORDNANCE									
38. TIME AND DATE OF OCCURRENCE										1901 05-08-04										39. TYPE OF PREMISES									
40. PLACE OF OCCURRENCE										150 BERGEN STREET										41. OCCURRED ON PUBLIC HOUSING PROPERTY?									
42. VICTIM OR COMPLAINANT'S NAME										UNIT 316 (C. ALVARADO/A. LLJO)										43. VICTIM OR COMPLAINANT'S ADDRESS									
44. COMPLTS. TEL. NO'S. HOME & BUSINESS										(973) 733 / 6190										45. DETAILS OF ARREST:									
46. STRANGER TO STRANGER CRIME										YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN <input type="checkbox"/>										47. CHECK REPORTS SUB.									
EVENT # 193472 THE ABOVE INDIVIDUAL WAS ARRESTED FOR OBSTRUCTION OF OF ADMINISTRATION OF LAW BY POINTING HIS FINGERS AND HANDS AT OFFICER										XX DP 1:002										XX DP 1:785									
THE ABOVE INDIVIDUAL WAS ARRESTED FOR RESISTING ARREST BY FLAIRING HIS HANDS AND PUSHING OFFICERS AWAY TO PREVENT ARREST										XX DP 1:1001										XX DP 1:1517									
THE ABOVE INDIVIDUAL WAS ARRESTED FOR DISORDERLY CONDUCT BY ENGAGING AND CREATING A RISK OF VIOLENT BEHAVIOR AND PLACING HIS HAND ON OFFICER										XX DP 1:152										XX DP 1:152.1									
PRISONER PROPERTY BAG #1031857										XX DP 1:225A										XX CDR									
PRISONER REFUSED PHONE CALL AT 2010 HOURS										XX 1755										XX 1755									
48. OTHER PERSON ARRESTED (NAME)										NONE										49. CENT. ARREST NO.									
50. OTHER PERSON ARRESTED (NAME)										NONE										51. CENT. ARREST NO.									
52. RESULTS OF RECORD CHECK										NO RECORD										53. IS PRISONER WANTED?									
54. IF WANTED, BY WHOM?										NO										55. WHO WAS NOTIFIED?									
56. DET. NOTIFIED										57. PARENTS OF JUV. NOTIFIED BY:										58. INTAKE OFFICER									
59. JUV. RELEASED TO / RELATIONSHIP										60. ADDRESS PERSON RELEASED TO										61. HOME TELEPHONE NUMBER									
62. BUSINESS TELEPHONE										63. JUVENILE DETAINED AT:										64. PRISONER TO BE FINGERPRINTED:									
65. PRISONER TO BE PHOTOGRAPHED:										66. PRISONER SEARCHED BY:										67. MONEY IN PRISONER'S POSSESSION									
68. RESTRICTIONS										69. RESERVED										70. SIGNATURE OF ARRESTING OFFICER									
71. SIGNATURE OF ARRESTING OFFICER										C. ALVARADO/A. LLJO										72. READ, CLASSIFIED AND APPROVED BY									
73. INVESTIGATION ASSIGNED TO										74. INVESTIGATION COMPLETED										75. ARRAIGNMENT (DATE)									
76. COURT										77. AMOUNT OF BAIL										78. BAIL SET OR PAROLED BY:									
79. SIGNATURE OF PERSON PAROLED TO										80. LIEUTENANT ACCEPTING BAIL OR PAROLING PRISONER										81. COMMITTED IN DEFAULT OF BAIL									
82. OFFICER IN CHARGE OF PRISONER										83. SENT TO CELL BLOCK BY										84. RECEIVED AT CELL BLOCK BY									
85. TIME & DATE REC.										86. CELESTIAL										87. TIME AND DATE TO COURT									
88. POSTPONED TO										89. PREVIOUS ARRESTS FOR BAIL DETERMINATION										90. TIME AND DATE FROM COURT									
91. TIME AND DATE OF JAIL										92. RESERVED										93. F.P. NO.									
94. INDEXED BY										95. MICROFILMED BY										96. RESERVED									
97. FINGERPRINTED BY										98. PHOTOGRAPHED BY										99. S.B. NO.									
100. F.B.I. NO.										101. F.B.I. NO.										102. F.B.I. NO.									

POLICE DEPARTMENT										ARREST REPORT										NEWARK, N.J.																																																																					
1. PRISONER'S LAST NAME FANOR										2. PRISONER'S FIRST NAME EVEN										3. TIME OF ARREST 1901 05-08-04										4. DISTRICT NO. 610446										5. CENT. ARREST NO. 12188 B-1																																																	
7. PRISONER'S ADDRESS: 156 IVY STREET										8. FLR. NEWARK, N.J.										9. APT. 										10. ALIASES (OR MAIDEN NAME IF FEMALE) 										11. OTHER AGENCY # 1347										12. CENT. COMPLT. NO. 46436-04																																							
13. WHERE ARRESTED: 150 BERGEN STREET										14. DATE OF BIRTH 01-30-70										15. PLACE OF BIRTH BROOKLYN N.Y.										16. AGE 34										17. HEIGHT 5'11										18. WEIGHT 254										19. HAIR BK										20. EYES BK										21. COMPLEXION DARK									
22. RACE BK										23. SEX M										24. <input checked="" type="checkbox"/> HISPANIC <input checked="" type="checkbox"/> NON HISPANIC										25. <input checked="" type="checkbox"/> MARRIED <input checked="" type="checkbox"/> SINGLE										26. CLOTHING BK PANTS, BK JACKET, BU SHOES, BL SHIRT										27. CDR #1 or CITY ORDINANCE SUM# - S 014747 SUM# - S 																																							
28. SOC. SEC. NUMBER 059-60-4017										29. DRIVERS LICENSE NO NONE										30. STATE 										31. VEH. REG. NO. 										32. SCHOOL AND GRADE OF JUVENILE NONE										33. CDR #2 WAR# - W WAR# - W 																																							
34. OCCUPATION ADVOCACY										35. NAME OF EMPLOYER OR GOVERNMENT AGENCY UMDEJ										36. SCARS, MARKS AND OTHER DESCRIPTIVE DATA NONE										37. CDR #1 or CITY ORDINANCE SUM# - S 014747 SUM# - S 																																																											
38. TIME AND DATE OF OCCURRENCE: 1901 05-08-04										39. TYPE OF PREMISES HOSPITAL										40. PLACE OF OCCURRENCE: 150 BERGEN STREET										41. OCCURRED ON PUBLIC HOUSING PROPERTY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO																																																											
42. VICTIM OR COMPLAINANT'S NAME: UNIT 316 (C.ALVARADO/A.LLJO)										43. VICTIM OR COMPLAINANT'S ADDRESS: 649 MARKET STREET										44. COMPLTS. TEL. NO'S: HOME & BUSINESS (973) 733 / 6190																																																																					
45. DETAILS OF ARREST: EVENT # 193472 THE ABOVE INDIVIDUAL WAS ARRESTED FOR OBSTRUCTION OF OF ADMINISTRATION OF LAW BY POINTING HIS FINGERS AND HANDS AT OFFICER THE ABOVE INDIVIDUAL WAS ARRESTED FOR RESISTING ARREST BY FLAIRING HIS HANDS AND PUSHING OFFICERS AWAY TO PREVENT ARREST THE ABOVE INDIVIDUAL WAS ARRESTED FOR DISORDERLY CONDUCT BY ENGAGING AND CREATING A RISK OF VIOLENT BEHAVIOR AND PLACING HIS HAND ON OFFICER										46. STRANGER TO STRANGER CRIME <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN										47. CHECK REPORTS SUB. XX DP 1:802 XX DP 1:795 NUTR-1 NP 1:1001 DP 1:1517 DP 1:152 DP 1:152:1 DP 1:225A XX CDR XX 1755																																																																					
48. OTHER PERSON ARRESTED (NAME) NONE										49. CENT. ARREST NO. 										50. OTHER PERSON ARRESTED (NAME) NONE										51. CENT. ARREST NO. 																																																											
52. ARRESTAL # 9474										53. RESULTS OF RECORD CHECK: <input type="checkbox"/> RECORD <input checked="" type="checkbox"/> NO RECORD										54. IS PRISONER WANTED? NO										55. IF WANTED, BY WHOM? 										56. WHO WAS NOTIFIED? 										57. DET NOTIFIED 										58. PARENTS OF JUV. NOTIFIED BY 										59. INTAKE OFFICER 																			
60. JUV. RELEASED TO / RELATIONSHIP 										61. ADDRESS PERSON RELEASED TO 										62. HOME TELEPHONE NUMBER 										63. BUSINESS TELEPHONE 										64. JUVENILE DETAINED AT 																																																	
65. PRISONER TO BE FINGERPRINTED: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO										66. PRISONER TO BE PHOTOGRAPHED: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO										67. PRISONER SEARCHED BY: P/O A.LLJO										68. MONEY IN PRISONER'S POSSESSION \$56.25										69. RESTRICTIONS <input type="checkbox"/> YES <input type="checkbox"/> NO										70. RESERVED 																																							
71. SIGNATURE OF ARRESTING OFFICER C.ALVARADO/A.LLJO										72. READ, CLASSIFIED AND APPROVED BY LEUT. 30																																																																															
73. INVESTIGATION ASSIGNED TO: 										74. INVESTIGATION COMPLETED 										75. ARRAIGNMENT (DATE) 										76. COURT 										77. AMOUNT OF BAIL 										78. BAIL SET OR PAROLED BY: 																																							
79. SIGNATURE OF PERSON PAROLED TO: 										80. LIEUTENANT ACCEPTING BAIL OR PAROLING PRISONER: 										81. COMMITTED IN DEFAULT OF BAIL <input type="checkbox"/> YES <input type="checkbox"/> NO										COMMITTED WITHOUT BAIL <input type="checkbox"/> YES <input type="checkbox"/> NO										DIRECTLY TO ARRAIGNMENT <input type="checkbox"/> YES <input type="checkbox"/> NO																																																	
82. OFFICER IN CHARGE OF PRISONER 										83. SENT TO CELL BLOCK BY: LT-TORRES										84. RECEIVED AT CELL BLOCK BY: 										85. TIME & DATE REC. 00405-9-04										86. CELL NO. 5																																																	
87. TIME AND DATE TO COURT: 										88. POSTPONED TO 										89. TIME AND DATE FROM COURT: 										90. PREVIOUS ARRESTS FOR BAIL DETERMINATION 										91. TIME AND DATE OF JAIL: 										92. RESERVED: 										93. F.P. NO. 																													
94. INDEXED BY: 										95. MICRO PROCESSED BY 										96. RESERVED 										97. FINGERPRINTED BY 										PHOTOGRAPHED BY: 										98. S.B. NO. 216216D										FBI NO. 																													

FUNCTIONAL JOB DESCRIPTION

TITLE CODE: 00347B

PATIENT REPRESENTATIVE

Under the direction of the Associate Director, serves as representative of hospital administration and provides a centralized mechanism for patients, families and visitors to achieve a satisfactory resolution of problems; focuses on potential problem areas to minimize the risk of health hazards to patients and the hospital and potential liability and consequent litigation. Educate both staff, patients, families and visitors as to the Patient's Rights and Responsibilities. Ensure that patients are granted due process, and that the institution can realize maximum financial compensation. Humanize patient's hospital experience by interpreting and clarifying hospital policies, procedures, philosophy and routines to patient for better understanding.

MAJOR DUTIES:

1. Investigates and resolves patient complaints throughout the entire hospital complex: In-patients, Outpatients, and Emergency Room patients.
2. Distributes Patient's Bill of Rights and Responsibilities to all patients in the institution.
3. Educates patients, families, visitors and staff into the Patient's Rights and Responsibilities.
4. Explains the Patient representative Program.
5. Interprets policies and procedures to patients, families and visitors. Review, and update, compile and extract obsolete copies of policies.
6. Analyzes and interpret data to determine appropriate action and refers to cognizant resource person and/or agency for resolution.
7. Documents all complaints, requests and compliments concerning the institution, its staff and services.
8. Generates Summary reports, Interdepartmental memos and departmental memos outlining problems and requesting responses where necessary.

9. Generating weekly and monthly reports and narratives indicating Quality Improvements.
10. Makes recommendations initiate corrective action to systemic problems, this is based on trending of information.
11. Sets-up conferences for patients, families and significant other.
12. Assisting patients with (a) lost property (b) proper discharge information (Social Services) © Clothing.
13. Intervenes on the patient's behalf in billing problems to ensure that appropriate billing systems have applied and takes corrective action needed through finance.
14. Escorts patients as necessary to various areas through the institution.
15. Acts as the liaison in the Emergency Room, representing both the patient and administration in maintaining two-way communication.
16. Helps alleviate unnecessary requests by families and visitors in the emergency Room areas.
17. Provides access to interpreter when language barriers is a problem in communication with patient, families or visitors.
18. Arranges for new clinical appointment and secure patient's medical records in the event that records were not available on the last visit.
19. Tracks down tests and reports for patients in the clinics, when ever it is missing.
19. Investigates and issue special passes to patients relatives when necessary.
20. Responds to patients, families and agencies requests for responses to their complaints.
21. Gives general educational information that affects the patient in the institution (ie) Proxy Law.
22. Generates reports as part of the Quality Management Division of the institution.

OBITUARY

Yves Phanor was born to the proud parents of Ulrich Phanor and Anne Marie Dantes Robert on July 18, 1958 in Haiti.

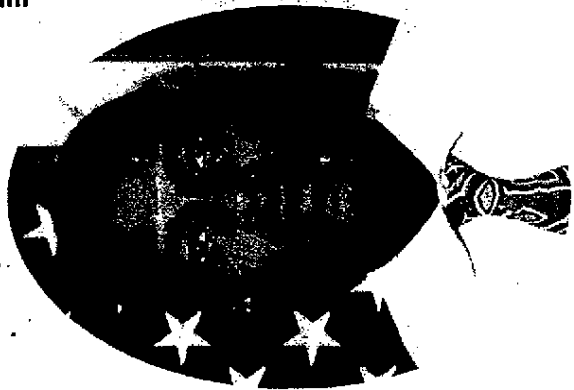
He is survived by: his wife, Marie Chantal Phanor; his children, Ashley Phanor, Jessica Phanor, Ryan Phanor, Mark Phanor; his mother, Anne Marie Robert; his step mother, Gerda Phanor; his step father, Gabriel Robert; his sisters, Marjorie Phanor, Miriamme Phanor, Marie Elise Ritchez, Marie Michelle Dantes; his brothers, Franz Phanor, Evans Phanor, Wilfrid Phanor, Joseph Yvon Dantes; his uncles, Rudolph Phanor, Joseph Phanor, Blucher Louis, Gerard Dantes, Leon Dantes; his aunts, Solange Phanor, Immacula Louis, Paulette Noel, Giselle Phanor, Marie Ange Phanor, Yvonne Jean, Clarence Dantes, Marguerite Jeudy; his mother-in-law, Solange Saintil; his sisters-in-law, Maggy Saintil, Christian and Marjorie Saintil, Noris Saintil, Betty Saintil, Jacqueline Saintil, Connie Saintil, Marie Rose Dantes; his brothers-in-law, Alix Saintil, Patrick Saintil, Garry Saintil, Reginald Saintil, Romuel Ritchez; his nieces, Romy Ritchez, Sheena Christian, Natasha Christian, Dominique Saintil, Crystal Saintil, Karina Saintil, Armani Saintil, Priscilla Alvarez; his nephews, Dave Ritchez, Spencer Paul Dantes, Alix Saintil Jr., Patrick Saintil Jr., Reginald Saintil Jr., Delino Saintil, Kyle Saintil, William Alvarez; cousins, Phanor, Dantes, Jeudy, Jean, Sajous, Louis, Lemaire, Hyppolite, Pierre, Dupervil, Joseph; and his friends, Lt. Barry Eugene, Lt. T.C. Cowart, Det. Raymond Carvil, Det. Leslie Dallemard, Major Marc Elias, Det. Julius Nelson, Det. Russseau, Dr. Gregoire Eugene, Det. Franzia Brea, Det. Frantz Gilles, Aristhene Ludovic, Roger Lanoue, Robert Lataille, Bernard Cassagnol, Adrien Rameau, Fred Jean Jean St. Amand, Officer Marilyn Pean, the Beauzele Families.

State Services - As an Officer of the City of Miami Police Department July 1989.

National Services - Instructor of the Haitian New Police Task Force April 1995.

Community and City Services - Was a great supporter of many organization of the community in the State of Florida, and also Port-Au-Prince Haiti.

Demise - August 28, 1996



TRIBUTE

*It's so hard for me to let go of you,
And convince myself you're in a better place,
Knowing this will be my last chance
To see that great big smile on your face.*

*I'm happy that God's taking care of you,
But the fact that you're gone is tearing me apart.
Because I miss you, my dearest Husband
With every single beat of my heart.*

*I need God to give me the strength to realize
That now is your time to rest.
But I'm so glad that you're with God,
Because you deserve nothing but the best.*

*I truly wish I can understand
Why you had to leave,
And why as strong as I try to be,
All I can do is grieve.*

*Since this is my final farewell to you,
I have only one thing left to say,
I love you my dear, sweet, sweet, yes
And your precious memories will carry me through each day.*

*From your faithful and
Loving wife*

A JOYOUS CELEBRATION

OF LIFE FOR A JOB WELL DONE
"MAY THE WORK I HAVE DONE,
SPEAK FOR ME"

Processional

Opening Remarks.....Rev. Nigel Hundy

Selection.....Amazing Grace #206

Prayer.....Minister Raymond Carvil

Scripture.....Charlot Alexandre

Selection.....Officer Julius Nelson
Officer Angela Chin

Remarks

Reflections of Yves Phanor...(Limited two minutes please)
Gary Eugene
Alix Saintil

Representative of the Police Department

Acknowledgements/

Presentations.....Pax-Villa Florida Funeral Home Staff

Obituary.....Read silently to soft music

Solo.....Julene Smith

Ministry of the Word.....Pastor Nigel Hundy

Prayer

Parting View

Recessional

HOUSE OF CLAY

*I have finished now with this house of clay,
Please kindly and gently lay it away;
And let me rest from this life of pain,
Toiling in sunshine, storms, and rain;
Trying to help the sick and poor,
And turning no needy from my door.
I have started to do my Master's work
Never a duty did I shirk;
Many times I was misunderstood
When I had done the best I could.
I am tired now, so let me rest.
Don't cry, don't you know, God knows best?
Please, no sad hearts, no hung down heads
Don't weep for me for I am not dead.
I have another house you know,
Where only God's redeemed can go,
I do not need this house of clay
So tenderly, carefully, lay it away.*



HONORARY PALLBEARERS

Garry Eugene
Marc Elias
Tonsam Cowart

Leslie Dallemand
Julius Nelson
Raymond Carvil

SPECIAL VOTE OF THANKS

During one's lifetime, we meet and become closely associated with many people. True friendship is the result of these lasting relationships. Yve's became attached to many people very special friends include Fred "Jean Jean" St. Amant, Garry Eugene, Marc Elias, Marc Paul, Tonsam Cowart, Leslie Dallemand, Julius Nelson, Raymond Carvil, the entire Royal Police Department of the City of Miami, Just to mention a few, but most of all my wife Chantal and our children. God was always the head of the family and followed his divine calling. No matter what! God is still in control.

Love Always
"Yves Phanor"

ACKNOWLEDGMENT

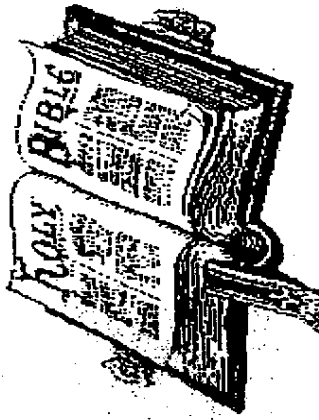
The Family of the late Officer Yves Phanor extends deep appreciation to our many friends, neighbors, and Yves co-workers who have brought comfort during the passing of our loved one. Please know that your acts of kindness and love are cherished and will be long remembered.

SERVICES ENTRUSTED TO

Pax-Villa Florida Funeral Home
770 N.W. 119th Street
Miami, Florida 33168
(305) 681-6122

INTERMENT
Southern Memorial

CELEBRATION OF LIFE FOR THE LATE



OFFICER YVES PHANOR

Saturday, September 7, 1996
10:00 A.M.

at

Evangel Temple
590 N.W. 159th Street
Miami, Florida

Officiating Pastor Nigel Hundy

Pax Villa Funeral Home

DB-450 (3-97) Reverse THE WORKERS' COMPENSATION BOARD EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION
LC-5012-13 Printed in U.S.A.

TO: Deputy Chief Robert P. Bauer DATE: May 19, 2003
Commander, Office of Professional Responsibility
FROM: Sergeant Kimberly A. Wnek #6658 FILE REF: INV 1
Internal Investigations
SUBJECT: INVESTIGATION OF PERSONNEL #03-283
COMPLAINT OF EXCESSIVE FORCE/IMPROPER SEARCH
JULY 15, 2002
EDWIN FRANCO

DETAILS OF INVESTIGATION:

This writer received this investigation on March 10, 2003.

On March 4, 2003, complainant Edwin Franco responded to Internal Affairs to initiate a complaint of improper search/excessive force against Sergeant Michael LaTorre, and Police Officers Carlos Alvarado and Albert Lijo.

Edwin Franco had stated that on July 15, 2002, at approximately 1645 hours (4:45 p.m.), he was at his apartment, 167 Walnut Street, playing video games with three friends, Steven Marquinhos, Felipe Martins, and Karen Walters. Edwin at this time was 32 years old.

Franco had stated that the cited officers responded to his apartment and spoke with his roommate, Ismael Duran. The officers told Duran that they needed to speak with Franco.

Franco had stated that the officers walked into his bedroom, handcuffed him and escorted him to the marked police vehicle. Franco stated that while in the police vehicle, Officer Alvarado stated that he was arrested for threatening a victim with a weapon. Franco stated that Officer Alvarado stated, "We found the shot gun shells, where are the fucken shotguns?" Franco stated, "I don't't have a shotgun."

2

SIGNATURE: _____
SUPERIOR RECEIVING REPORT

SIGNATURE: Kimberly A. Wnek

DATE: _____
DP11001

RANK: Sergeant #6658

OS2270Police

TO: Deputy Chief Robert P. Bauer
Commander, Office of Professional Responsibility
FROM: Sergeant Kimberly A. Wnek #6658
Internal Investigations
DATE: May 19, 2003
FILE REF: INV 1
SUBJECT: INVESTIGATION OF PERSONNEL #03-283
COMPLAINT OF EXCESSIVE FORCE/IMPROPER SEARCH
JULY 15, 2002
EDWIN FRANCO

During this time, the officers escorted his three friends out of the bedroom and into the hallway, where they were patted down and field interrogated.

Franco had stated that Officer Alvarado grabbed him out of the vehicle and took him to the alley alongside of 167 Walnut Street. There, Officer Alvarado raised a pellet gun, belonging to Franco, and attempted to strike him on his head, while Franco was handcuffed and on his knees.

Franco yelled for his roommate, Ismael Duran, who came out and observed what was occurring. Alvarado then walked back inside the house, then made Franco sign a Consent to Search form after his bedroom had been searched.

Franco was arrested for Aggravated Assault, Possession of Weapon, and Possession of Weapon for Unlawful Purpose.

On March 10, 2003, this writer sent contact letters to Edwin Franco, Ismael Duran, and Anthony Joana, via certified mail.

On March 10, 2003, this writer telephoned Edwin Franco and arranged a date for his video statement, March 13, 2003.

SIGNATURE: _____ 3 SIGNATURE: Kimberly A. Wnek
SUPERIOR RECEIVING REPORT
DATE: _____ RANK: Sergeant #6658

TO: Captain Richard P. Maguire
Commander- Office of Professional Responsibility
FROM: Sergeant Joanne Y. Kosa
Office of Internal Affairs
SUBJECT: INVESTIGATION OF PERSONNEL #01-1618
RE: EXCESSIVE FORCE
CROSS REF: IOP#01-1614

DATE: December 20, 2001

FILE REF: INV 1

OFFICER/S INVOLVED:

P/O CARLOS ALVARADO ID#9051 ED
P/O ALBERTO LIJO ID#8052 ED

SUMMARY:

On November 12, 2001, a complainant identified as Reinaldo Negron, H/M/20, responded to the Office of Professional Responsibility along with William Pagan, H/M15. Mr. Negron made a complaint of **Excessive Force** by an unknown H/M Newark police officer. Mr. Negron reported that while he was doubled parked at 39 Oxford Street waiting for friends, his vehicle was approached by (2) Newark Police Units. He further stated that he was ordered out of his vehicle, at gunpoint, struck on the back of his neck with the weapon, and ordered on the ground. He complained of being poked in his ribs with the weapon. As per Mr. Negron, the officers then searched his vehicle and were called away after hearing a call on the police radio for Oxford Street. The officers then left the scene. (CROSS REF: IOP#1614—CC#01-110035)

Sergeant Julio Rubbet conducted the Preliminary Investigation. Mr. Negron consented to giving a videotaped statement. He was unable to identify the officers involved in the incident upon viewing the OOPR Photo Books. He and Mr. Pagan were photographed a showed minor injury to their faces. Videotape submitted to OOPR Main vault. (REFER TO PRELIMINARY REPORT FOR DETAILS OF PRELIMINARY INVESTIGATION.

FINDINGS:

EXONERATED: I find the officer' actions were legal, justified and proper.

RECOMMENDATION:

I recommend no further action in this matter.

SIGNATURE: _____
Superior Receiving Report

SIGNATURE: _____

Joanne Y. Kosa
Joanne Y. Kosa

DATE: _____ RANK: Sergeant, #6182

TO: Acting Deputy Chief Barry Colicelli
 Commanding Office of Internal Affairs
 FROM: Sergeant William A. Sanchez
 Office of Internal Affairs
 SUBJECT: Excessive Force

DATE: 6/17/00

FILE REF:

Preliminary Investigation

On 6/17/00 while at the Office of Internal Affairs conducting a preliminary investigation on a police pursuit I received a phone call from Norma Fonseca. She stated she was arrested on 6/16/00 and that she was improperly arrested and treated on 6/16/00. I instructed her to respond to Internal Affairs for a statement and to look through photos.

Ms. Fonseca arrived at Internal Affairs where she provided me with copies of two summons sheet. The sheets indicate she was arrested on 6/16/00 by officer Carlos Alvarado for disorderly conduct and resisting arrest. I looked through our files and found officer Carlos Alvarado's identification number is 9051. An array of this officer could not be compiled since he is currently not in our photo books. Ms. Fonseca displayed a bruise to her right hand and stated she also injured her right knee during the arrest. I took photos of her hand and of her hand.

In summary Ms. Fonseca stated she sells ice-cream at Broad and Market from a pushcart. On 6/16/00 she observed the officer approach another lady, who's name and information she does not have, and converse with her. He later approached her and in Spanish told her he was fed up with the problems she and the other vendor were having. **Ms. Fonseca asked if she could explain but the officer declined to listen to her and took her vendor's license from around her neck and told her to follow him.** She followed him to the booth located on Broad and Market and both entered it. While inside the **officer grabbed her hand and pulled on it at which time she told him to let go of her and that she was pregnant.** Ms. Fonseca pulled her arm from the officers grip and told him to let her go and not to grab her. Once again the officer grabbed her arm, pulled something out and **sprayed her on the face (mace).** After being maced the officer handcuffed her behind her back. The complainant states she became desperate and couldn't breath. **Both she and the officer exited the booth where she fell to the ground on her right side.** The officer attempted to help her up and in doing so either stepped on her right leg or struck it, (she doesn't imply the officer purposely kicked her). After getting up she and the officer re-entered the booth where she told him her face was hurting. **She was allowed to stick her head out of a small window where the officer poured water on her face and eyes.** Several other persons also poured some water on her face. The arresting officer called for another unit to arrive and Ms. Fonseca was placed inside the patrol vehicle. After placing her inside the officer closed the door and remained outside for approximately five minutes speaking with other persons. **Ms. Fonseca began kicking the door and window in an attempt to get the officer's attention.** She stated she was having difficulty breathing and wanted the officer to open the windows. The officer re-entered the auto along with the driver and Ms. Fonseca was taken to the East District Command. At the

SIGNATURE: _____
 SUPERIOR RECEIVING REPORT

SIGNATURE: William A. Sanchez

DATE: _____
 DP11001

RANK: Sergeant ID#6800

OS2270Police